



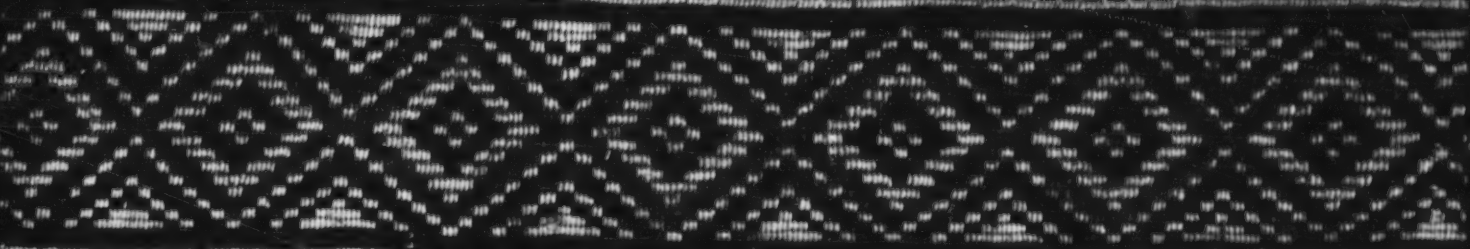
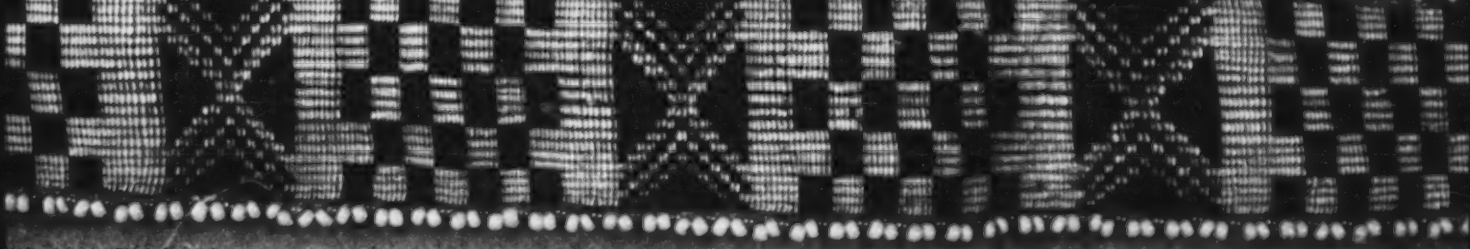
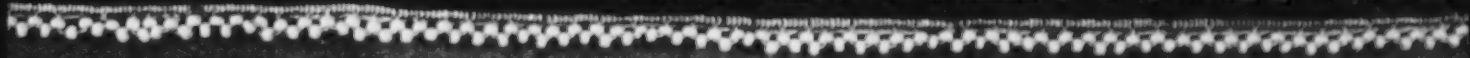
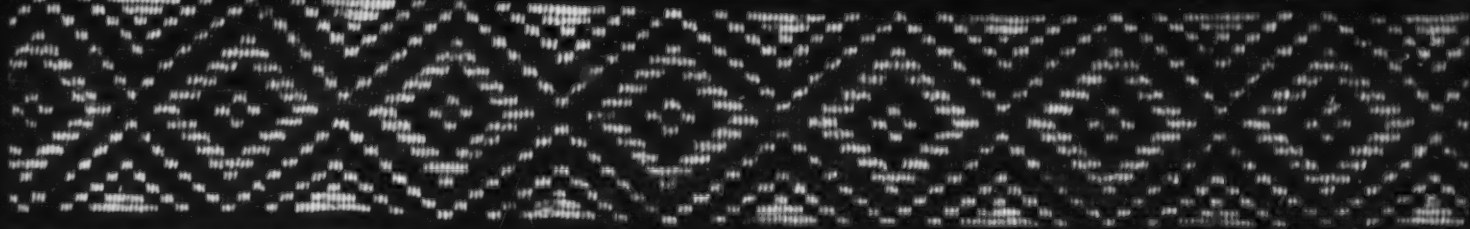
Aboriginal Self-Government in the Northwest Territories

Information Kit



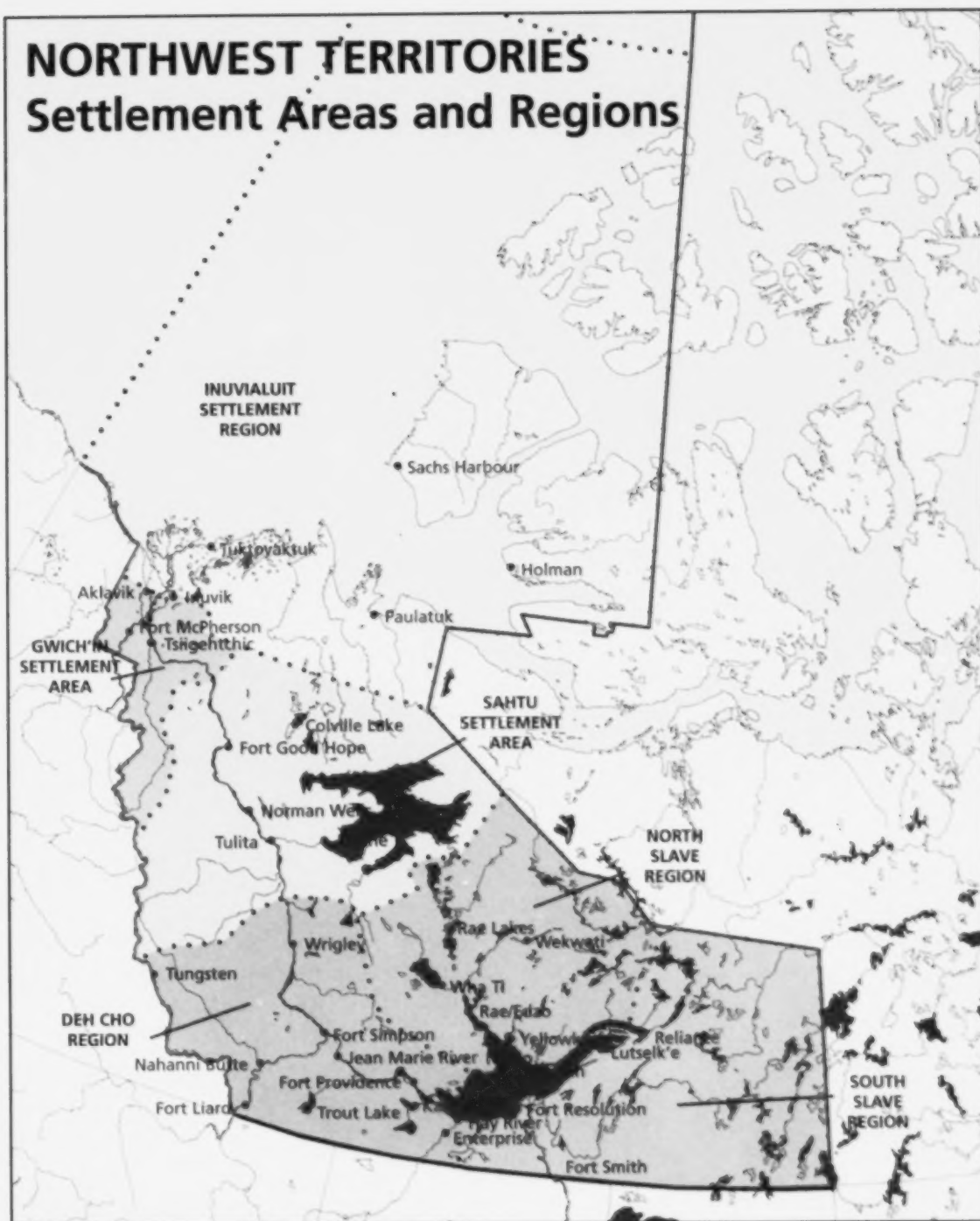


Aboriginal Self-Government in the Northwest Territories



Understanding Self-Government

NORTHWEST TERRITORIES Settlement Areas and Regions



Legend

Deh Cho Region	North Slave Region	Sahtu Settlement Area
Gwich'in Settlement Area	Inuvialuit Settlement Area	South Slave Region

Note: Boundaries between some regions have not been finalized.

Produced at the NWT Centre for Remote Sensing for the
Department of the Executive.
May 3, 1999.

0 100 200 km

Scale: 1:15000000

Understanding Self-Government

What This Booklet is About

The Government of Canada, the Government of the Northwest Territories (GNWT) and several **Aboriginal peoples** are now taking part in negotiations dealing with Aboriginal and **treaty rights**. The right of **self-government** is a major subject in these negotiations. Changes in the way we govern ourselves in our territory, in our regions and at the community level can be expected.

The GNWT has prepared this booklet to provide information to help understand the background to these negotiations. It is intended to help build a common understanding of some of the issues and to encourage Northerners to become informed about and involved in the discussion.

Aboriginal and treaty rights, the right of self-government, and some of the reasons why we must adjust our system of government are the focus. The booklet explains the background to Aboriginal and treaty rights and the inherent right of self-government. Constitutional development will also change how we govern ourselves and the accompanying materials provide some background on this.

This booklet and the supplementary booklets are meant to give background information and provide some basis for the discussion of Aboriginal and treaty rights, self-government and related subjects. It is not intended to state the GNWT's legal position on such issues, nor is it a policy statement. It is intended to help you to appreciate the challenges and opportunities that lie ahead. It has been written in plain language where possible, avoiding technical and legal terms. As well, the broad focus of this booklet has meant that some generalizations have had to be made.

This booklet is just one step in providing information and involving Northerners in a discussion of the way our government is set up and could change. If you have any questions or views on this material you may forward them to:

Office of the Premier
Government of the Northwest Territories
Box 1320, Yellowknife, NT X1A 2L9
e-mail: premier@gov.nt.ca
fax: (867) 873-0104

Why Self-Government is Important

Governments exist to serve the public - to develop policies and provide services that meet the needs of their citizens and residents. Yet, it is not often that citizens get a chance to take part in redesigning the governments that serve them.

Note: Key words are identified in BOLD text and defined in a listing of Key Words and Ideas on page 15 of this booklet. Other key words are defined where they occur in the text.



Commemoration of 100 years of Treaty 8. Standing left to right: Peter, Jerry and Wilford Paulette.
photo: Slave River Journal

The people of the NWT face important challenges over the next few years. As in other parts of Canada, we need to meet Aboriginal aspirations for self-government. The way we do so must work in our communities, regions and territory as a whole. The way our communities are made up means that Aboriginal and public governments need to work together to make the North a better place for all to live.

Before contact with Europeans, Aboriginal peoples managed their own affairs. Since those times, many of the impacts of the wider society have been negative for Aboriginal people. The negotiation of land claim, **treaty land entitlement** and **self-government agreements** points to a more hopeful future - one that is based upon the recognition of historic rights and that puts resources and responsibilities back in the hands of Aboriginal people. Aboriginal and treaty rights have been recognized in the courts and are

enshrined in the Constitution of Canada. Land claim and self-government agreements are negotiated on the basis of these rights. They are important tools for change.

Aboriginal self-government and the constitutional development of the NWT are related subjects. Although the NWT is not a province, it has many province-like powers and responsibilities. One important difference is that Northerners do not have control over their natural resources. The Department of Indian Affairs and Northern Development (DIAND), a federal department, manages most of these. In addition, many parts of one of our key constitutional documents, the *Northwest Territories Act (NWT Act)*, are out of date and do not fully reflect the changes that have occurred in the North over the past 50 years. Discussions have been held in all communities on possibilities for constitutional change. This process is expected to continue and will be affected by discussions on Aboriginal and treaty rights, and by land claim and self-government agreements.

We need to take a close look at how we govern ourselves today and at how this might change. Self-government agreements and constitutional development will change the relationships between the federal, territorial, Aboriginal, community and regional governments. This change must occur in a way that respects Aboriginal and treaty rights as well as the basic democratic rights of all residents. It must also give Northerners real control of their economic and social development.



Chief Julian Yends, who signed Treaty 11 in 1921. This photo was taken in the 1970s.
photo: NWT Archives

There are strong historical, legal, constitutional, economic and social reasons to settle issues of Aboriginal and treaty rights and pursue our constitutional development. As we begin to make changes at all levels, we need to be able to answer some basic questions. There is a much better chance of finding the answers if we work together.

We need to find answers to questions like:

- How do we put the inherent right of self-government into practice?
- How do we make sure that the overall system of government will be workable and efficient and will allow for practical arrangements among all levels of government?
- How do we make sure that the rights and freedoms of all northern residents are respected?
- How do we make sure that the residents have comparable services from one part of the territory to another and so are able to keep their ability to move freely within the NWT?
- How do we make sure that new arrangements will provide for clear rights and responsibilities?

The issues are difficult and the answers require careful thought. That is why all Northerners need to take part in the discussion. We need to appreciate the social and economic effects and opportunities of the decisions we make.

The challenge

An efficient government and a healthy economy require a clear legal framework. Aboriginal and public governments, communities, corporations and individuals need clarity in things like:

- Ownership and rights to land and resources;
- Authority to regulate development;
- Responsibility to provide programs and services.

Through claims, self-government and other discussions, we have the opportunity to create new arrangements, perhaps different from those tried in other places. Cooperation and coordination will be needed for a successful outcome. As Northerners, we have a far better chance to control our economic, social and political future if we can work together. If we see ourselves as made up of competing groups, our society will be pulled one way or another by different interests at different times. If that happens, basic decisions affecting the territory will be made by those who do not live here. Some of the levers of control will not be in our hands. We will not choose the decisions that get taken. But by working in a spirit of trust and respect, we can forge a better future - both for ourselves and for generations to come.

Aboriginal and Treaty Rights – What They Mean

Introduction

Aboriginal peoples occupied North America for thousands of years before first contact with Europeans. This is where **Aboriginal rights** come from.

Aboriginal rights are subject to interpretation by the courts but include, at the least, a people's right to use and occupy its traditional territory for traditional purposes. Such rights as to hunt,

fish, trap, gather traditional foods and medicines, and establish camps and villages are therefore basic. Self-government may also be considered an Aboriginal right which comes from Aboriginal peoples' organization of their own societies from time immemorial.

"The

recognition of the inherent right of self-government is based on the view that the Aboriginal peoples of Canada have the right to govern themselves in relation to matters that are internal to their communities, integral to their unique cultures, identities, traditions, languages and institutions, and with

respect to their special relationship to their land and resources."

Aboriginal Self-Government: The Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government, P 2

Why Governments are Engaged in Aboriginal Rights Negotiations

There are legal and constitutional reasons to negotiate land claim and self-government agreements, but social justice is another important reason. A major theme in the recommendations of the Royal Commission on Aboriginal Peoples is that we need to change the relationship between Aboriginal peoples and the federal, provincial and territorial governments. The settlement of outstanding Aboriginal rights is a critical step. The negotiation of Aboriginal rights agreements is an important way in which public governments and Aboriginal people can recognize, protect and clarify Aboriginal rights.

Historical Reasons

Following the colonization of North America by the European nations, much of the land traditionally used by Aboriginal peoples was taken for settlement or the resources on it and the freedom of Aboriginal peoples to make decisions affecting their lives was increasingly infringed upon. Many of the political and economic changes have been detrimental to the culture and social organization of Aboriginal people, and to their general well being.



Gathered for treaty payments at Fort Rae, 1905
photo NMT Archives

At the same time, the ~~Crown~~ has recognized some essential rights on the part of Aboriginal peoples. These include Aboriginal rights and title, treaty rights and, increasingly in the present period, the right of self-government. It is these aspects of the Crown's activity which offer the best promise for restructuring Crown-Aboriginal relationships in a positive manner.

Legal and Constitutional Reasons

The *Constitution Act* of 1982 includes sections that recognize the rights of Aboriginal peoples.

"35.(1)

The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

(2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.

(3) For greater certainty, in subsection (1) "treaty rights"

includes rights that now exist by way of land claims agreements or may be so acquired.

(4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons."

Section 35 of the Constitution Act, 1982



NDP MLAs meet with the federal Cabinet in 1981 to argue for the recognition of Aboriginal and treaty rights in the constitution. *Seated, left to right* Donald Stewart (Speaker), Tappé Carey, George Bruden (Leader of the Electors (Executive), Nellie Cournoyea and Bob MacGuarrie. *photo: NDP Archives*

These sections were included in the constitution to reassure Aboriginal people, their organizations, and the Canadian public when the British responsibility for changing the Canadian constitution was ended in 1982. This was part of the national understanding that was built at that time.

In 1994, the Government of Canada stated that it would negotiate self-government agreements on the understanding that the inherent right of self-government is an

existing Aboriginal right recognized in section 35 of the *Constitution Act, 1982*. The federal government acknowledged that Aboriginal peoples have an inherent right of self-government that should be recognized by all Canadians.

As well as the inherent right policy, there are sections in **land claim agreements** that commit the federal and territorial governments to negotiate self-government agreements. For example, both the *Guichin* and *Sahné* land claim agreements include sections dealing with self-government. These outline the subjects for self-government negotiations and some general principles. There is also a relevant section in the **Beaverhead** land claim agreement.

The recognition of Aboriginal and treaty rights in the constitution, the commitments made in land claim agreements and the federal inherent right policy together provide a basis for Aboriginal



The Deline Self-Government Process and Schedule Agreement is signed in 1998. *Left to right:* Chief Raymond Taniton (Deline) and Minister Jane Stewart (DIAND).
photo: DIAND

self-government negotiations. But the constitution, the inherent right policy and the self-government sections of land claim agreements do not spell out how self-government is to work in practice. Negotiations give the federal and territorial governments and the Aboriginal people the flexibility needed to work out how to put the right of self-government into practice. Through these negotiations, the powers of Aboriginal and public governments and the relationship between the two will be worked out.

Economic Reasons

There is little doubt that clarifying Aboriginal and treaty rights questions will have an important impact on economic development decisions across Canada. Clarity about land rights will help stimulate investment in the NWT economy.

Lack of a northern consensus has made it difficult for us to secure the transfer of province-like responsibilities, particularly the management of natural resources, from the federal government to the North. Unlike the provinces, the NWT does not control non-renewable resources (minerals, oil, gas, land and water). Lack of control over resources has contributed to dependence on federal financing to provide essential services. Until outstanding Aboriginal rights questions are clarified, opportunities for economic development cannot be fully taken advantage of. Northerners will continue to need the federal government to pay for programs and services.

Social Reasons

The fact that Aboriginal people in the NWT are disadvantaged economically and face significant social problems is well documented. Many people take the view that the problem stems, in part, from a failure to allow Aboriginal people to develop and put into practice their own solutions to the problems in their communities. Dependency upon government to provide for basic needs is the result. In other words, Aboriginal peoples currently lack the power and resources needed to deal with the social, economic and health issues they face.

While self-government and the settlement of Aboriginal and treaty rights issues will not in themselves improve the conditions of Aboriginal peoples, they will provide essential tools for Aboriginal peoples to set their own priorities and work out their own solutions.

Summary

The combination of historical, legal, constitutional, economic and social reasons for negotiating Aboriginal rights agreements illustrate the need for governments and Aboriginal peoples in the NWT to sit down and conclude this unfinished business. It is in the interest of all Northerners to recognize the rights of Aboriginal peoples, to resolve self-government and land questions, and to establish a mutually respectful relationship between Aboriginal and non-Aboriginal Northerners. This is expected to help to create a stable and predictable environment that will encourage political, social and economic development in the North.

Our Common Rights

All Northerners, Aboriginal and non-Aboriginal, enjoy certain basic rights and freedoms as citizens of Canada, and in particular those guaranteed in the constitution under the *Canadian Charter of Rights and Freedoms*. These rights and freedoms include such things as freedom of speech, religion and association, equality before the law, freedom from arbitrary arrest, the right to live and work in any province or territory, and the right to vote in federal, provincial and territorial elections. All of these are **individual rights**. The *Charter* applies to the federal, provincial and territorial governments, and to any matter falling within their law-making powers. The courts may strike down any law that violates the *Charter*. In this way *Charter* rights are strongly protected.

The federal inherent right policy states that all governments in Canada, including **Aboriginal governments**, should be bound by the *Charter*.

"Self-government agreements, including treaties, will, therefore, have to provide that the *Canadian Charter of Rights and Freedoms* applies to Aboriginal governments and institutions in relation to all matters within their respective jurisdictions and authorities."

However, the *Canadian Charter of Rights and Freedoms*, as well as other parts of the constitution, recognizes the existence of some collective rights alongside **individual rights**. Particularly important for Aboriginal peoples is Section 25, which states that the *Charter* is not to be interpreted as infringing upon Aboriginal and treaty rights.

"25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including

(a) any rights or freedoms that have been recognized by the

Royal Proclamation of October 7, 1763; and

(b) any rights or freedoms that now exist by way of land claims agreements or may be so acquired."

Section 25 of the Canadian Charter of Rights and Freedoms

One of the challenges of restructuring government in the NWT is to make sure that the rights and freedoms of all residents, Aboriginal and non-Aboriginal, as well as the collective *rights* of Aboriginal peoples, are given expression. This means that Aboriginal governments cannot infringe upon the rights guaranteed in the *Canadian Charter of Rights and Freedoms*, while the *Charter* itself must not be interpreted to take away from the special rights of Aboriginal people, including the right of self-government.

Finding the right approach may not always be easy. But it is critical if we intend to create a system of government that is seen to be legitimate by all residents and that reflects respectful relationships amongst peoples and governments.

land

claim agreements provide protection for the individual rights of Aboriginal people -

"Self-government agreements shall not affect the rights of the Gwich'in as Canadian citizens or their entitlement to all the rights and benefits of other citizens applicable to them from time to time."

Gwich'in Comprehensive Land Claim Agreement.

The Sahtu and (in a different manner) the Inuvialuit land claim agreements contain similar provisions.

In addition to respecting the basic rights of all Northerners, particularly rights protected in the *Charter*, any new government arrangements must also ensure that the basic quality of life of Northerners is not diminished.

This means that new government arrangements must ensure continued access to social services like day care, education, social assistance and housing, across the NWT. It means economic security, whether through government employment, private sector employment, self-employment or income assistance. It means ensuring anyone can move freely within the territory knowing that his or her basic social, economic and political rights and freedoms will still be intact. It means knowing that rights like the right to vote and run for office and critical services like medical care will not be negatively affected.

New government arrangements will affect Northerners' quest for self-determination and prosperity. The new system of government must increase the ability of Northerners to run their own affairs. It must avoid duplicating responsibilities and services. It must provide stability in order to encourage investment and economic growth. A strong and united voice is also important to protect Northerners' interests in negotiations with the federal government and in national discussions of social, economic and constitutional issues.

Some Important Questions

The following questions are often asked about self-government. The answers deal with the main issues only and could be expanded.

Why do Aboriginal peoples have an inherent right of self-government?

The inherent right of self-government is based on the fact that Aboriginal peoples governed themselves before European contact and never gave up the right to do so. The word "inherent" means that Aboriginal peoples have always had this right. It is regarded as a pre-existing right, not a right granted by other governments.

Do land claim agreements deal with self-government?

The Inuvialuit, Gwich'in and Sahtu land claim agreements all include sections dealing with self-government. The Gwich'in and Sahtu agreements say that the federal and territorial governments will negotiate self-government agreements with the Gwich'in and Sahtu **Dene** and **Metis**. The Inuvialuit land claim agreement says that the Inuvialuit will be treated as favourably as other Aboriginal peoples in changes to government in the Western Arctic Region. The Dogrib Comprehensive Land Claim and Self-Government Agreement-in-Principle deals extensively with issues of self-government in the Dogrib region.



The Sahtu Dene and Metis Comprehensive Land Claim Agreement is signed in 1993. *Left to right:* Winston McNeely (Sahtu Tribal Council), Minister Stephen Kakfwi (GNWT), Premier Nellie Cournoyea (GNWT) and President George Cleary (Sahtu Tribal Council).

photo: DIAND

What powers are under discussion at self-government talks?

Subjects for negotiation are taken from the federal government's inherent right policy and the Gwich'in, Sahtu and Inuvialuit land claim agreements. They include things like the legal status of Aboriginal authorities, Aboriginal citizenship, structures of government generally, education, language, culture, health, social services, child welfare, taxation, administration of justice, policing, wills and estates, housing, roads and traffic, economic development, and municipal services.

Who will pay for self-government?

None of the parties has yet agreed to any kind of cost-sharing. The federal government's stated national policy position is that financing of self-government is a shared responsibility of the federal, provincial and territorial governments, as well as of Aboriginal governments and institutions. It is expected that financing arrangements will differ from region to region and will be decided at each of the negotiating tables.

Existing program responsibilities, financial resources, and the federal government's special responsibilities for Aboriginal peoples will be considered. In addition there is a growing appreciation by all parties that "capacity building" in communities and regions is essential to putting self-government agreements into practice.

Will the *Canadian Charter of Rights and Freedoms* continue to apply?

The federal government's inherent right policy says that the Government of Canada is committed to the principle that the *Canadian Charter of Rights and Freedoms* shall bind all governments in the country. It goes on to say that "self-government agreements, including treaties, will, therefore, have to provide that the *Canadian Charter of Rights and Freedoms* applies to all Aboriginal governments and institutions in relation to all matters within their respective jurisdictions and authorities." Wording may be required in self-government agreements to ensure this result.

Will there be separate public and Aboriginal governments?

Aboriginal and public governments do not have the same responsibilities. Depending on the intentions of the Aboriginal peoples that are involved in the negotiations, and the agreements that are reached, there could be both Aboriginal and public governments providing certain services at the community and regional levels.

Who will be affected by self-government?

Self-government will affect everyone. It will establish new relationships amongst peoples and governments and in the longer run will shape the society we live in. Of course, those residents who live in a community or region where a self-government agreement is put into practice will be more directly affected than those who live in a community where self-government has not been negotiated.

The most obvious difference to people in communities may be in the form of government that represents them. As well, communities and regions will have a lot more responsibility for programs and services, including law-making powers in many areas.

Why do we need to change our system of government?

The GNWT has a short history as a working democratic government and has undergone a great deal of change in a few years. There has been a fully elected Legislative Assembly only

since 1975 and a Cabinet that is accountable to Members of the Legislative Assembly (MLAs) only since 1986. In addition, the boundaries and population of the NWT changed a great deal with the establishment of Nunavut as a separate territory in 1999.

Some Aboriginal organizations say that the GNWT and municipal governments have been imposed upon Aboriginal peoples without their consent. They see the current territorial and municipal governments as exercising responsibilities that should belong to Aboriginal governments. Others accept the territorial government but want more powers at the community and regional levels, and possibly guarantees for Aboriginal representation. Although the GNWT is representational and Aboriginal people participate in its various institutions, some view the present form of government as temporary.

One of the goals of the GNWT is therefore to improve the relationship between Aboriginal and non-Aboriginal people and create a system of government that is built on mutual respect and which is accepted by all residents.

What is the relationship between Aboriginal self-government and the constitutional future of the NWT?

The NWT's future constitutional development will mean changing the relationship of the territorial government to the Government of Canada, to the provinces and to Aboriginal governments. The GNWT will therefore face some important challenges over the next few years.

Basic goals must be:

- To encourage understanding and agreement on the role of the GNWT as the one government in the territory which represents and serves all residents;
- To make sure that the GNWT has the legal, human and financial resources needed to govern the territory in the interests of its people.

To accomplish these goals, the people and government of the NWT will have to consider:

- How to make sure that approaches taken on territorial constitutional development will be consistent with those taken in self-government negotiations;
- How to protect and strengthen the GNWT's presence in federal-provincial decision-making forums;
- How to make the *NWT Act* more appropriate as a key constitutional document for the territory.

Will non-Aboriginal people have to give up any rights because of self-government?

The federal and the territorial governments will ensure that the rights of non-Aboriginal people are not prejudiced by self-government. In particular, the *Canadian Charter of Rights and Freedoms* will continue to apply to all levels of government.



The Supreme Court of the NWT.
photo: NWT Archives

Is negotiation the only way to settle outstanding Aboriginal and treaty rights?

Negotiation is not the only way to deal with Aboriginal and treaty rights. The courts are available to settle disputes. But the court process is often expensive and lengthy, and

matters may be decided on technical grounds. As well, legal judgments often give rise to further negotiations. Negotiations give those taking part in them the chance to come to an agreement which is acceptable to all.

Why are some Aboriginal groups in the NWT not engaged in negotiations?

Some Aboriginal groups have chosen not to take part in current Aboriginal and treaty rights negotiations for various reasons. Some Aboriginal groups have other priorities and are not ready to devote the necessary resources to negotiations. Others are of the view that the federal land claims, treaty land entitlement and inherent right policies are too limited to form a basis for negotiations. With some groups, there is also no agreement about who should be involved in the negotiations.

Key Words and Ideas

Aboriginal Government

A government which represents and serves an Aboriginal people.

Aboriginal Peoples

The descendants of the original peoples of Canada. Section 35 (2) of the *Constitution Act, 1982* defines the Aboriginal peoples of Canada as Indians, Inuit and Metis. The Aboriginal peoples of the NWT are grouped in six major regions and speak seven major Aboriginal languages.

Aboriginal Right

A right of an Aboriginal people stemming from the use of certain areas in the period before European settlement. Aboriginal rights are subject to interpretation and judgement by the courts but, as a minimum, include the right to hunt and fish and follow the traditions of an Aboriginal people. Aboriginal people, the federal government, the GNWT and some provincial governments consider self-government to be an Aboriginal right.

Aboriginal Title

The terms "Aboriginal rights" and "Aboriginal title" are sometimes used interchangeably. Recent court decisions suggest that Aboriginal title means the right to occupy and use a certain area of land, and is a type of Aboriginal right. Aboriginal customs, practices and traditions are another type of Aboriginal right that can be distinguished from Aboriginal title.

Agreement-in-Principle (AIP)

A draft agreement between an Aboriginal people and the Crown to settle land claims or self-government rights. When completed, the AIP is subject to approval by the Aboriginal people and governments involved.

Collective Rights

Rights based on membership in a distinct group of people. These may include language rights, education rights based on religious affiliation, and Aboriginal and treaty rights.

Crown

The Queen is the formal head of the government in Canada. For this reason, the government is often called "the Crown". For the same reason, agreements with the government are called agreements with "Her Majesty".

Dene

Aboriginal peoples of the Mackenzie Valley, from Inuvik and Aklavik southwards. Dene groups in the NWT include the Gwich'in, Sahtu Dene, Dogrib, Chipewyan and South Slavey. Dene speak languages that are distinct from one group to another, but which belong to the same general language family.

Indian

Section 91 (24) of the *Constitution Act, 1867* gives the federal government responsibility for "Indians, and Lands reserved for the Indians". The *Indian Act* was passed by Parliament under this constitutional authority.

Individual Rights

Rights held by every person as an individual. In Canada, these include rights stated in the *Canadian Charter of Rights and Freedoms*, as well as those stated in other federal, provincial, or territorial laws, such as the NWT's *Fair Practices Act*.

Inuvialuit

The Inuit of the Mackenzie Delta and Beaufort Sea region.

Land Claim Agreement

An agreement between an Aboriginal people and the Crown to settle Aboriginal rights in a geographic area. Land claim agreements deal with things like the rights of governments and Aboriginal people to land and resources, wildlife management and cash compensation. Land claim agreements may also deal with self-government.

Metis

Historically, people of both Aboriginal and non-Aboriginal origins mainly located in the prairie provinces and the NWT. Metis belong to a distinct group and are defined in the constitution as one of the Aboriginal peoples of Canada.

Public Government

A government which represents and serves all residents in an area. The federal, provincial, territorial and municipal governments are all "public governments".

Self-Government

The regulation by an Aboriginal people of its own affairs through an Aboriginal government.

Self-Government Agreement

A formal agreement between an Aboriginal people and the federal, provincial or territorial governments that deals with things like the powers of an Aboriginal government and its relationship to public governments.

Treaty

A formal agreement between an Aboriginal people and the Crown. Under Section 35 (3) of the *Constitution Act, 1982* "treaties" include recent land claim agreements like the Inuvialuit Final Agreement as well as older agreements like Treaties 8 and 11.

Treaty Land Entitlement

A term used by the federal government for the entitlement or right of an Aboriginal people to have certain lands set aside for them on the basis of a treaty such as treaties 8 and 11.

Treaty Right

A right recognized in or granted by a treaty. Treaty rights may include verbal (unwritten) promises made when the treaty was negotiated.

For Further Reference

A number of publications and papers have been used to help prepare this booklet. This list could easily be expanded, but the following publications are probably the most useful and easy to get hold of for further information and opinion on the various subjects discussed.

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- Western Constitutional Forum
Chronology of Events: January, 1982 - June, 1987, WCF, Yellowknife, 1987

Agreements

- Comprehensive Land Claim Agreement between Her Majesty the Queen in Right of Canada and the Gwich'in as represented by the Gwich'in Tribal Council**, DIAND, Ottawa, 1992
- Comprehensive Land Claim Agreement between Her Majesty the Queen in Right of Canada and the Dene of Colville Lake, Fort Franklin, Fort Good Hope, Fort Norman and Norman Wells in the Sahtu Region of the Mackenzie Valley as represented by the Sahtu Tribal Council**, Sahtu Tribal Council, DIAND and GNWT, Ottawa, 1993
- Comprehensive Land Claim and Self-Government Agreement-in-Principle among the Dogrib First Nation as represented by the Dogrib Treaty 11 Council and the Government of the Northwest Territories and the Government of Canada**, initialed August 9, 1999
- The Western Arctic Claim - The Inuvialuit Final Agreement**, Indian and Northern Affairs Canada, Ottawa, 1984 (and subsequent amendments)

WEBSITES

The internet is an important source of information especially in communities where there are only small libraries or no libraries at all. The following websites have information about some of the issues discussed in this booklet. From them you will be able to find other useful websites.

Government of the Northwest Territories
www.gov.nt.ca

Constitutional Working Group
www.cwgcommonground.org

Indian and Northern Affairs Canada
www.inac.gc.ca

Ministry of Aboriginal Affairs, Government of British Columbia
www.aaf.gov.bc.ca/aaf

[illegible]

 Chipewyan
 Gwich'in
 North Slavey
 Dogrib
 Inuvialuktun/Innuinaqtun
 South Slavey

Seal: 0 0470204000

Produced at the MMT Centre for Remote Sensing for the
Department of the Executive.
May 2, 1999.

NORTHWEST TERRITORIES Aboriginal Language Groups

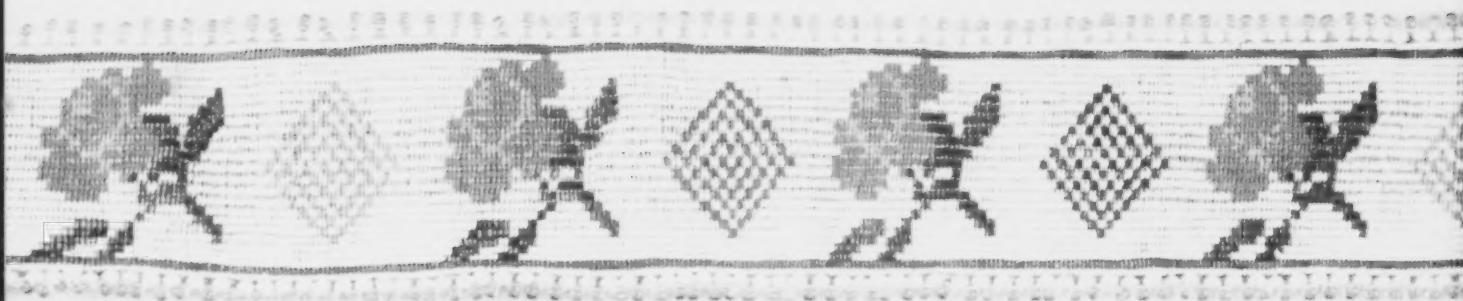


Legend

Note: In some communities, a number of Aboriginal languages are spoken. As one example, in Fort Smith and Hay River, Cree is also spoken.

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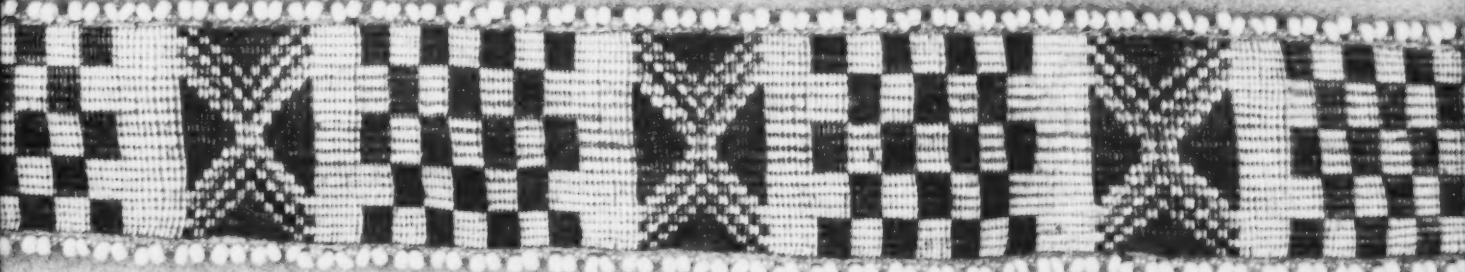
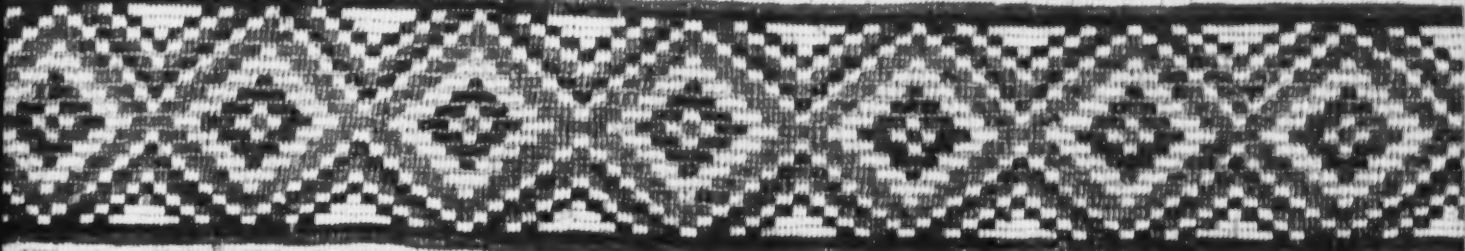
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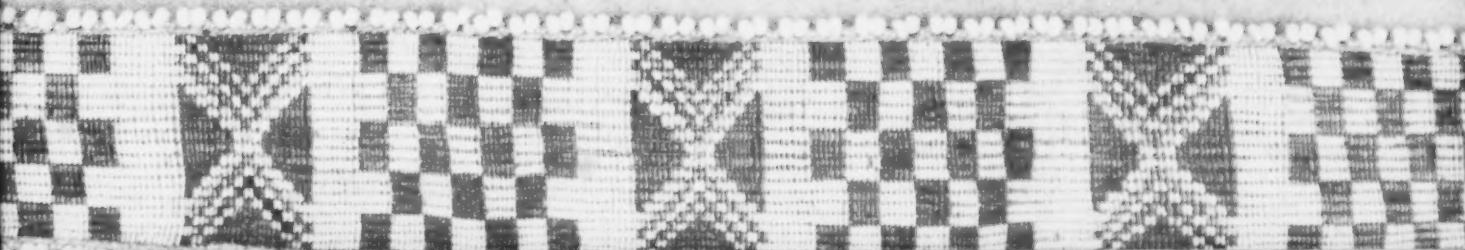
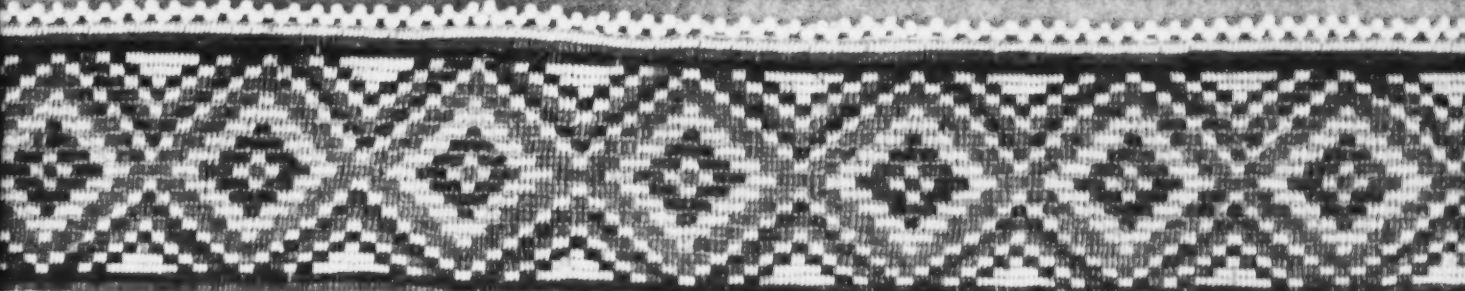


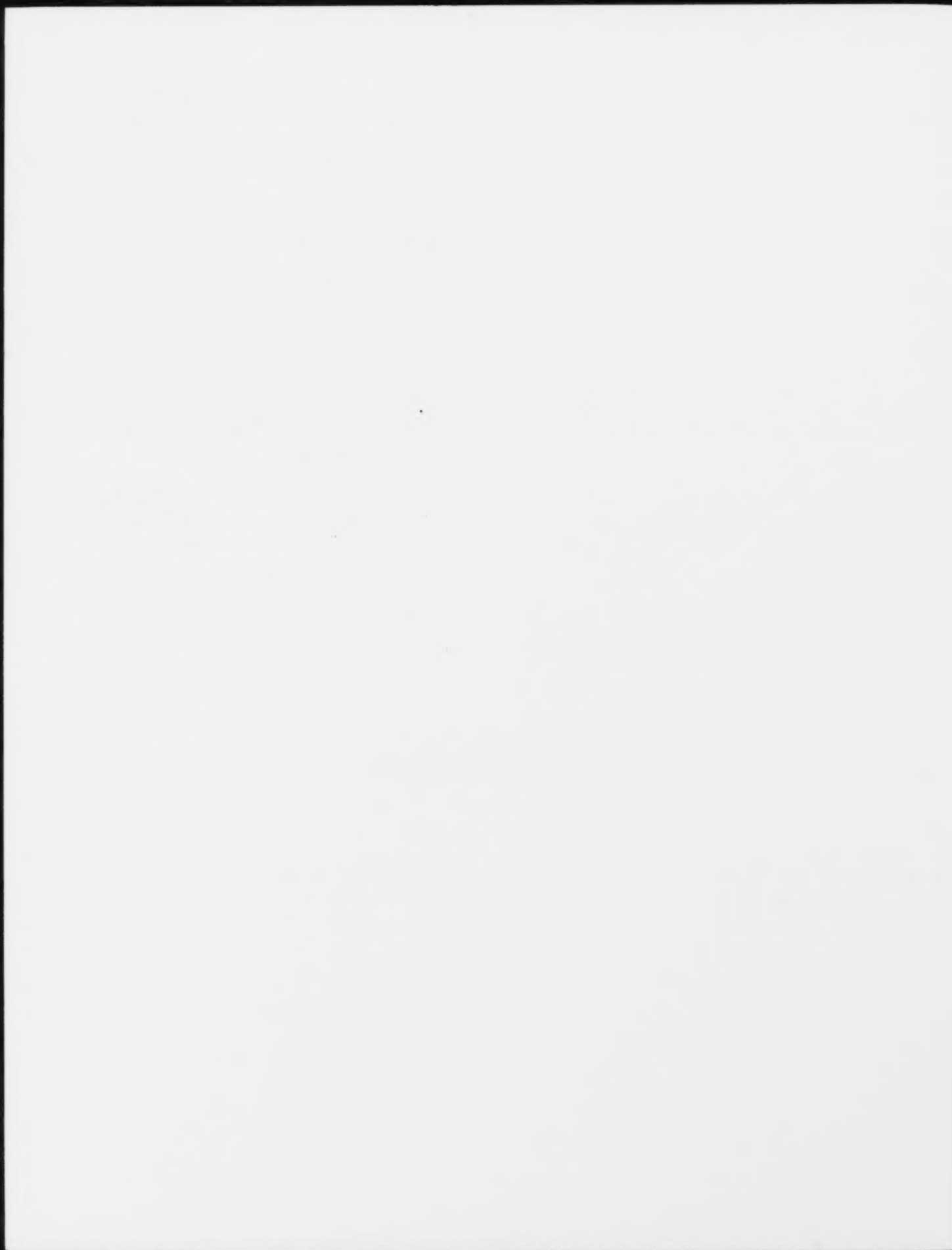
Aboriginal Self-Government in the Northwest Territories

Supplementary Booklet 1



Aboriginal Peoples and the Crown – A Changing Relationship





Introduction

Before the European states established colonies in the Americas, **Aboriginal peoples** governed their own affairs. The colonial powers claimed sovereignty in North America on the basis of "discovery" but in practice their power was gradually built up by trade and settlement, warfare and diplomacy.

Many of the early Aboriginal **treaties** aimed at "peace and friendship" with Aboriginal peoples and colonial documents from the earlier period refer to Aboriginal peoples as "allies" rather than as "subjects". Treaty making with Aboriginal peoples and the recognition of **Aboriginal rights** and title were part of the process by which the colonial powers established themselves.

The *Royal Proclamation*

Even after the British had defeated the French in North America, it remained important for them to maintain good relations with Aboriginal peoples. This required the control of non-Aboriginal settlement and careful dealings with Aboriginal peoples over their lands.

The ***Royal Proclamation*** of 1763 is the most important statement of British policy towards Aboriginal peoples in North America. The *Proclamation* called for friendly relations with the Aboriginal peoples and noted that "great Frauds and Abuses" had occurred in land dealings. From the date of the *Proclamation* on, only the **Crown** could legally buy Aboriginal lands and any such sale had to be made at a "public Meeting or Assembly of the said **Indians** to be held for that Purpose." The *Proclamation* reserved existing Aboriginal lands for the "several Nations or Tribes of Indians" and required all non-Aboriginal persons living on these lands "forthwith to remove themselves..."

The *Royal Proclamation* has been called the **Magna Carta** of the Aboriginal peoples. Although there has been disagreement on whether or not the *Proclamation* applies in law to the NWT, it still set out certain principles for dealings between the Crown and the Aboriginal peoples. The Government of Canada promised to follow these principles in Rupert's Land and the **North-Western Territory** after 1870. The special responsibilities of the Crown for Aboriginal peoples can be traced back to the role of protector that the Crown took on under the *Proclamation*.

the

Royal Proclamation of 1763 is important for establishing that:

- Aboriginal peoples had an interest in certain lands;
- this interest belonged to the "tribe" or "nation", not to individuals;
- only the Crown could buy or accept Aboriginal lands;
- the Crown was required to obtain lands from Aboriginal peoples by agreement;
- any unsold or unsurrendered Aboriginal lands were reserved to the exclusive use of Aboriginal peoples;
- the Aboriginal peoples were under the protection of the Crown.

Note: Key words are identified in **BOLD** text and defined in a listing of Key Words and Ideas on page 12 of this booklet. Other key words are defined where they occur in the text.

Treaty-Making

The principles outlined in the *Royal Proclamation* were generally followed in the negotiation of treaties in the following years. Most of these early treaties were simple land sales, but in some cases the treaties also included hunting and fishing rights. Annual treaty payments ("annuities") first appeared in a treaty in 1818 and after that became normal.

Aboriginal

people were important in helping European explorers, traders and officials in northern Canada. A few important examples from the early period include:

- *Thandethur*: A Chipewyan woman who negotiated peace between the Chipewyans and the Cree and so made it possible for the Hudson's Bay Company to build Fort Prince of Wales (near Churchill, Manitoba) and begin direct trading with the Chipewyans. Though still a teenager when she died in 1717, she impressed the Governor James Knight, who remarked on her high spirits and said that she had the firmest resolve that he had ever encountered.
- *Matonabbee*: A Chipewyan trading captain who was adopted by the Metis Governor Moses Norton, representing the

Hudson's Bay Company at Fort Prince of Wales. Matonabbee, who spoke Chipewyan, Cree and English, accompanied the Hudson's Bay Company officer, Samuel Hearne, on travels to the mouth of the Coppermine River from 1770-72.

- *Awgeenah*: Accompanied Hearne and Matonabbee to the Coppermine River in 1772 and Alexander Mackenzie to the Arctic Ocean in 1788-89.
- *Akaitcho*: A Chipewyan leader who helped British navy explorers, Sir John Franklin and George Back, to find their way overland in the Canadian Sub-arctic and Arctic. Made peace with the Dogribs in 1823.
- *Edzo*: A Dogrib leader who made peace with the Chipewyans under Akaitcho near Snare Lake in 1823.

The Rupert's Land and North-Western Territory Transfer



The Hudson's Bay Company in its later role.
photo: NWT Archives

When the Dominion of Canada was set up in 1867, it did not include any of the territories of the Hudson's Bay Company. These territories, called "Rupert's Land and the North-Western Territory" were administered by the Company under a Charter granted by King Charles II of England in 1670. From the time of confederation, the Canadian government made it clear that it wanted Rupert's Land and the North-Western Territory to be part of Canada.

The Hudson's Bay Company gave up its **Royal Charter** in 1870, in exchange for cash and other compensation. Great Britain then transferred Rupert's Land and the North-Western Territory to Canada. The British **Order-in-Council** of 1870, which carried out this transfer, included a requirement that:

"Any claims of Indians to compensation for lands required for purposes of settlement shall be disposed of by the Canadian Government in communication with the Imperial Government..."

In accordance with this requirement, Treaties 8 and 11 were negotiated by the Canadian government with the **Dene** of the NWT.

Treaties 8 and 11

Before the beginning of modern land claims negotiations, two treaties - Treaty 8 and Treaty 11 - were therefore signed in the area of the present NWT.

The main aim of the Canadian government in signing Treaties 8 and 11 was to get the cooperation of the Dene in the opening up of the North. The Yukon gold rush of 1898 and the discovery of oil at Norman Wells in 1920 were the immediate concerns leading to the negotiations.

The negotiations for Treaty 8 were conducted in the summer of 1899 with the "Cree, Beaver, Chipewyan, and other Indians inhabiting the district..." and the treaty was signed at Lesser Slave Lake in northern Alberta on June 21, 1899. **Adhesions** to the Treaty were signed in the NWT in 1900. Treaty 11 was signed by the Crown and representatives of "the Slave, Dogrib, Loucheux, Hare and other Indians..." in 1921. An adhesion to Treaty 11 was signed at Fort Liard in 1922.



Tent for treaty payments at Fort Rae, 1925.
photo: NWT Archives

Metis, Inuvialuit and the Treaties

Some Metis joined Treaties 8 & 11 and so became "Treaty Indians". However, most Metis were given "scrip" instead of treaty rights. Scrip was a government certificate that could be exchanged for land or money. Money scrip worth \$240 or land

scrip of 240 acres (just under 1 square kilometer) was given for each Metis family head and child.

In 1929 there were discussions in Aklavik on bringing some of the Inuvialuit under Treaty 11. The Inuvialuit rejected this proposal.

the

written terms of Treaties 8 and 11 are similar to those of the treaties signed throughout western Canada. The main features, according to the texts, are:

- the purpose was to establish "peace and goodwill" between the Dene and the Crown's other subjects;
- the Dene are stated as giving up their rights to their lands to the Crown;
- the Crown guaranteed the right to hunt, trap and fish throughout the Treaty area, subject to regulation, except in those areas taken up for settlement, mining, timber cutting, etc;
- reserves were to be set aside on the formula of one square mile (2.59 square kilometers) per family of five;
- a cash payment of \$32 for Chiefs, \$22 for Headmen, and \$12 for all others, following signing;
- annual Treaty payments of \$25 for Chiefs, \$15 for Headmen and \$5 for all others;
- the Crown was to pay the salaries of teachers to instruct the Dene;
- agricultural assistance and equipment was to be provided;
- the Dene promised to act as "good and loyal subjects of Her Majesty", to obey the law and to maintain peace with other subjects of the Crown.

There has been disagreement between the federal government and the Dene over the basic nature of the treaties. The Dene interpretation of Treaties 8 and 11 is based on the testimony of elders rather than upon the written texts. The Dene viewed the treaties as agreements of "peace and friendship" rather than as agreements to give up Aboriginal rights or title. The federal government has viewed the treaties as agreements that gave up Aboriginal rights or title in exchange for the benefits and promises made in the treaties.

Whether or not Treaties 8 and 11 ended **Aboriginal title** in the NWT is a question that came to a head in the *Paulette* case in 1973. This case arose from a Dene attempt to file a **caveat** on certain Crown lands. The Dene argued in court that the written version of the treaties did not reflect the understanding of the Dene who signed them. In the Supreme Court of the NWT, Justice Morrow found that, "...notwithstanding the language of the two treaties, there [is] a sufficient doubt on the facts that aboriginal title was extinguished..." to justify the filing of a caveat until the issue of Aboriginal title was settled. The Supreme Court of Canada later ruled that the caveat could not be filed on Crown lands but the courts did not rule on the basic issue

of whether or not Aboriginal title was in fact given up by signing the treaties.

In the 1970s, the Government of Canada decided to negotiate comprehensive land claims settlements throughout the NWT, including in the areas covered by Treaties 8 and 11. The *Paulette* case, and Dene opposition to the federal interpretation of the treaties, doubtless played a part in this decision. However, the federal decision was also based upon the fact that the Dene had never received the **reserve** lands that they were entitled to under the written terms of



Signing of the NWT Dene-Metis land claim agreement - in - principle in Rae in 1988. *Standing left to right:* Jim Rabesca and Bill Erasmus. *Seated left to right (front row):* Prime Minister Brian Mulroney, Joe Rabesca and Mike Paulette.

photo: NWT Archives

the treaties. This created the possibility for the federal government (if the Dene agreed) of not following a **treaty land entitlement** approach but of following an approach for the settlement of land claims across the North that would be similar for Treaty and non-Treaty Indians, Metis and Inuit. On this basis the federal government agreed to negotiate a land claim with the Dene and Metis of the NWT in 1976 and 1977. Formal negotiations began in 1981.

The **Inuvialuit** began land claim negotiations in the mid-1970's, and the *Inuvialuit Final Agreement* was signed in 1984. But attempts to reach a single **land claim agreement** for all the Dene and **Metis** of the NWT broke down in 1990. Claims negotiations then shifted to a regional basis. The Gwich'in signed a land claim agreement in 1992, and the Sahtu Dene and Metis in 1994. The Dogrib negotiated an agreement-in-principle to settle their land claim and provide for **self-government** in 1999.

the following are some of the features of land claims agreements which have been concluded in the NWT.

Inuvialuit Final Agreement

(June 25, 1984)

Beneficiaries	2500
Settlement Region	435,000 square kilometers
Inuvialuit surface title	91,000 square kilometers
Inuvialuit sub-surface title	10,820 square kilometers
Cash compensation	\$45 million (1977 value)
Economic Enhancement Fund	\$10 million
Social Development Fund	\$7.5 million

Gwich'in Comprehensive Land Claims Agreement

(April 22, 1992)

Beneficiaries	2200
Settlement Area	58,800 square kilometers
Gwich'in NWT surface title	22,331 square kilometers
Gwich'in NWT sub-surface title	6158 square kilometers
Gwich'in Yukon surface title	1554 square kilometers
Financial payment	\$75 million (1990 value)
Resource royalties	for every year, 7.5% of the first 2 million in the Mackenzie Valley & 1.5% of any additional royalties

Sahtu Dene and Metis Comprehensive Land Claim Agreement

(September 6, 1993)

Beneficiaries	2200
Settlement Area	280,238 square kilometers
Sahtu surface title	41,437 square kilometers
Sahtu sub-surface title	1813 square kilometers
Financial payment	\$75 million (1990 value)
Resource royalties	for every year, 7.5% of the first 2 million in the Mackenzie Valley & 1.5% of any additional royalties

The *Indian Act*

Parliament passed the first *Indian Act* in 1876 to create a legal framework for Indian reserves and communities. This was mainly to try to control Indian political, cultural and economic practices. The long-term goal was to assimilate Indians into the wider society by ending their distinct way of life.

The Government of Canada's use of the *Indian Act* in this way did not respect Aboriginal and **treaty rights**. The treaties were meant to be agreements but the *Indian Act* was imposed. And it was the *Indian Act*, rather than the treaties, which governed Aboriginal communities in most ways once reserves were set up.

The *Indian Act* has therefore been criticized for infringing on the right of self-government and for breaking the spirit of the treaties. It has also been criticized for being discriminatory and infringing on human rights (as understood today) throughout much of its history. The Act's "membership" sections before 1985 are the best-known example. These took away legal recognition ("status") from any Indian woman who married a non-Indian (including another Aboriginal person who was not recognized as a status Indian under the Act). Women and their children in this situation were denied the benefits (including treaty rights) given to persons recognized as status Indians under the Act, and had no legal right to live on reserve lands.

In southern Canada, the *Indian Act* has protected reserve lands to some extent. Many parts of the present Act give the Crown a trust or **fiduciary responsibility** for things like the management of Indian land, money and property, in order to protect this land, money and property. But the *Indian Act* gives control to the Minister of Indian Affairs and Northern Development rather than to the Aboriginal people to whom the land, money or property belongs. In such ways, the Act is not consistent with Aboriginal self-government.

Bill C-31

The membership sections of the *Indian Act*, concerning marriage to non-Indian males, were challenged by Jeanette Lavell and Yvonne Bedard in the Supreme Court of Canada in 1972. A majority of the judges of the Supreme Court upheld these provisions of the *Indian Act*.

In 1981, Sandra Lovelace further challenged these provisions of the *Indian Act* before the United Nations Human Rights Committee. In this case, the Committee found that these sections of the Act violated the *International Covenant on Civil and Political Rights*.

As a result of such actions, section 25 of the *Constitution Act* of 1982 was changed in 1983 to make it clear that Aboriginal and treaty rights were guaranteed equally to men and women. In addition, Aboriginal women and their children who lost their Indian status and their band membership through marriage to a non-Indian were able to have their status and band membership restored through the enactment of Bill C-31, *An Act to Amend the Indian Act*, in 1985. However, in many cases the children or grandchildren of reinstated persons are not recognized under the *Indian Act*.

Application of the *Indian Act* in the NWT

Following the signing of Treaties 8 and 11, **band** councils under the *Indian Act* were set up in the NWT. But the only reserves that have been set up are at Hay River and Salt Flain. Because the *Indian Act* mainly applies to communities located on reserves, the *Act* has not had as much importance in the NWT as in southern Canada. But even in the North the *Indian Act* has affected the lives of Aboriginal people. The membership sections are an example of this.

Changing Directions

Government policy towards **Aboriginal peoples** has shifted many times since the first European settlements and trading posts were set up in North America. Over the years Aboriginal rights and title have sometimes been upheld and sometimes denied. Assimilation and protection, paternalism and self-determination have all been expressed in government policy at various times.



The Gwich'in Comprehensive Land Claims Agreement is signed in 1993. *Left to right*, President Willard Hagen (Gwich'in Tribal Council), Minister Tom Siddon (DIAND), and Premier Nellie Courmoyer (GNWT)

photo: Gwich'in Tribal Council

The main period of treaty-making in Canada after confederation came to an end with the signing of Treaty 11 in the NWT in 1921 and the adhesions to Treaty 9 in northern Ontario in 1929-30. Attempts to deal with Aboriginal rights and title then stopped in Canada for about 40 years. In fact, the *Indian Act* was changed in 1927 to make the raising of money for land claims an offence that could be punished by a term in jail. This section of the *Indian Act* was not repealed until 1951.

Federal policy on land claims was changed by the Supreme Court of Canada's decision in the 1973 *Calder* case. In this case, the Supreme Court split over the question of whether the Nisga'a continued to have Aboriginal title in British Columbia. In August of the same year, the federal government announced a policy for the settlement of Aboriginal land claims by negotiation. This policy, which has since been reviewed and changed, marks the beginning of the modern land claims process in Canada.

Self-Government and Constitutional Recognition

Most Aboriginal peoples have seen land claim settlements as only part of a broader requirement to deal with their rights. Thus, when steps began to patriate the Constitution of Canada in the 1970s, Aboriginal organizations tried to influence this process with the aim of protecting Aboriginal and treaty rights. These efforts led to a major Aboriginal lobby in 1981 which won wide support in Canada and overseas. The entire Legislative Assembly of the NWT travelled to Ottawa in 1981 to talk to Members of Parliament and support the recognition of Aboriginal and treaty rights in the constitution, as well as to let MPs know of other territorial concerns with the constitutional proposals then being put forward.

As a result of all these efforts, Sections 25 and 35 (protecting Aboriginal and treaty rights) were included in the *Constitution Act, 1982*. The constitutional recognition of Aboriginal and treaty rights was therefore part of the national consensus that was built to support **patriation** of the constitution.

But although the constitution recognizes Aboriginal and treaty rights, it does not say what these rights are in detail. A particular concern of Aboriginal peoples has been the right of self-government.

A series of special constitutional conferences was held for the purpose of discussing Aboriginal constitutional concerns between 1982 and 1986. The Aboriginal right of self-government was the most prominent subject in these discussions. But although there was a great deal of federal, provincial and territorial support for dealing with Aboriginal self-government as a constitutionally protected right, there was not enough agreement around the table to reach a constitutional agreement on this subject.

The 1987 Meech Lake constitutional accord failed to deal with Aboriginal interests. The attempt to deal with federal-Quebec issues, and by-pass Aboriginal and northern concerns, resulted in the failure of the Meech Lake Accord in 1990. Elijah Harper's role in expressing Aboriginal opposition, in the Manitoba Legislative Assembly, was especially important.

In later constitutional discussions, the *Charlottetown Accord* of 1992 would have recognized self-government as a constitutionally protected Aboriginal right. Throughout the *Charlottetown Accord* discussions, as in earlier constitutional conferences, the GNWT supported a constitutional amendment that would entrench Aboriginal self-government. However, the *Charlottetown Accord* dealt with many issues besides self-government, and in the end was rejected in a national referendum.

In 1994, the Government of Canada proposed that, instead of amending the constitution to explicitly recognize the inherent right of self-government, it would negotiate self-government **agreements** on the understanding that the inherent right of self-government is an existing right already recognized in section 35 of the *Constitution Act, 1982*. In this way, the federal government acknowledged that Aboriginal peoples have an inherent right of self-government. In 1995, the federal government released its policy guide, *Aboriginal Self-Government - The Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government*, often referred to as "the inherent right policy". This outlines the federal government's present approach to the inherent right of self-government.

Key Words and Ideas

Aboriginal Government

A government which represents and serves an Aboriginal people.

Aboriginal Peoples

The descendants of the original peoples of Canada. Section 35 (2) of the *Constitution Act, 1982* defines the Aboriginal peoples as Indians, Inuit and Metis.

Aboriginal Right

A right of an Aboriginal people stemming from the use of certain areas in the period before European settlement. Aboriginal rights are subject to interpretation and judgement by the courts but, as a minimum, include the right to hunt and fish and follow the traditions of an Aboriginal people. Aboriginal people, the federal government, the GNWT and some provincial governments consider self-government to be an Aboriginal right.

Aboriginal Title

The terms "Aboriginal rights" and "Aboriginal title" are sometimes used interchangeably. Recent court decisions suggest that Aboriginal title means the right to occupy and use a certain area of land, and is a type of Aboriginal right. Aboriginal customs, practices and traditions are another type of Aboriginal right that can be distinguished from Aboriginal title.

Adhesion

An Aboriginal people who did not sign a treaty when it was negotiated could later sign a document accepting the treaty. This said that those signing it agreed to "adhere to", or accept, the treaty.

Agreement-in-Principle (AIP)

A draft agreement between an Aboriginal people and the Crown to settle land claims or self-government rights. When completed, the AIP is subject to approval by the Aboriginal people and governments involved.

Band

A local grouping of Indian people as defined in Section 2 of the *Indian Act*. Many bands are known as First Nations.

Caveat

A warning. In the *Paulette* case, the Dene attempted to file a formal notice or warning of a claim against the land with the Registrar of Land Titles.

Crown

The Queen is the formal head of the government in Canada. For this reason, the government is often called "the Crown". For the same reason, agreements with the government are called agreements with "Her Majesty".

Dene

Aboriginal peoples of the Mackenzie Valley, from Inuvik and Aklavik southwards. Dene groups in the NWT include the Gwich'in, Sahtu Dene, Dogrib, Chipewyan and South Slavey. Dene speak languages that are distinct from one group to another, but which belong to the same general family.

Fiduciary Responsibility

The duty of the Crown to act in the best interests of an Aboriginal group on particular matters. The fiduciary duty gives the Crown the obligation to deal with treaty or land claim obligations through a fair process.

Indian

Section 91 (24) of the *Constitution Act, 1867* gives the federal government responsibility for "Indians, and Lands reserved for the Indians". The *Indian Act* was passed by Parliament under this constitutional authority.

Inuvialuit

The Inuit of the Mackenzie Delta and Beaufort Sea region.

Land Claim Agreement

An agreement between an Aboriginal people and the Crown dealing with Aboriginal title in a geographic area. Land claim agreements deal with things like the rights of governments and Aboriginal people to land and resources, wildlife management and cash compensation. Land claim agreements may also deal with self-government.

Magna Carta

A Charter granted by King John of England in 1215. Magna Carta is the source of many of the liberties of British subjects.

Metis

Historically, people of both Aboriginal and non-Aboriginal origins mainly located in the prairie provinces and the NWT. Metis belong to a distinct group and are defined in the constitution as one of the Aboriginal peoples of Canada.

North-Western Territory

19th Century and early 20th Century legal documents refer to the "North-western Territory", the "North-Western Territories", the "North-West Territories" and the "North-west Territories". The spelling of the "Northwest Territories" became standard in the first part of the 20th Century.

Public Government

A government which represents and serves all residents in an area. The federal, provincial, territorial and municipal governments are all "public governments".

Order-in-Council

An Order made by the King or Queen, the Governor General or a Lieutenant Governor, on the advice of Cabinet.

Patriation

Before 1982, Canada had to get the British Parliament to make important changes to its constitution. Patriation meant making the constitution so that it could be changed by the federal and provincial governments, following certain procedures, without needing to go to the British Parliament.

Public Government

A government which represents and serves all residents in an area. The federal, provincial, territorial and municipal governments are all "public governments".

Reserve

Defined in Section 2 of the *Indian Act* as an area of land that has been set aside for an Indian Band. Under the *Indian Act* the Crown has the title to Indian reserve land.

Royal Charter

A document through which the King or Queen grants certain rights or privileges to a person or a group of people.

Royal Proclamation

A formal declaration by the King or Queen on a matter of government.

Self-Government

The regulation by an Aboriginal people of its own affairs through an Aboriginal government.

Self-Government Agreement

A formal agreement between an Aboriginal people and the federal, provincial or territorial governments that deals with things like the powers of an Aboriginal government and its relationship to public governments.

Treaty

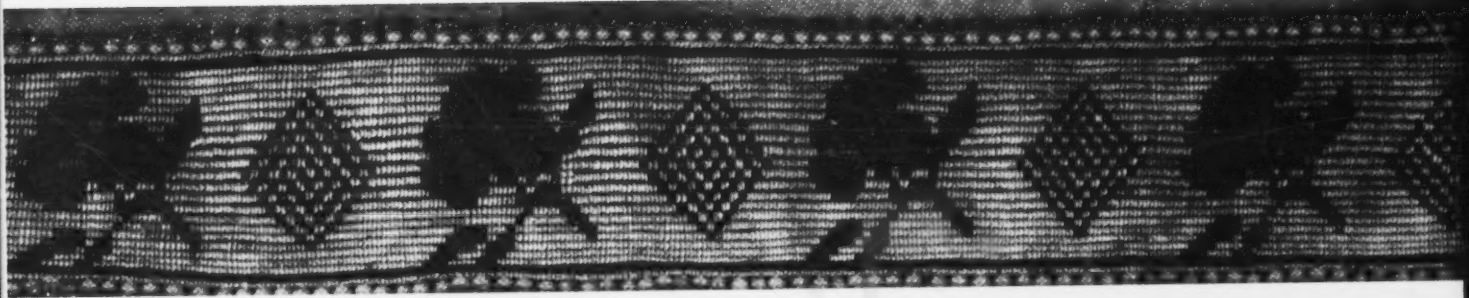
A formal agreement between an Aboriginal people and the Crown. Under Section 35 (3) of the *Constitution Act, 1982* "treaties" include recent land claim agreements as well as older agreements like Treaties 8 and 11.

Treaty Land Entitlement

A term used by the federal government for the entitlement or right of an Aboriginal people to have certain lands set aside for them on the basis of a treaty such as treaties 8 and 11.

Treaty Right

A right recognized in or granted by a treaty. Treaty rights may include verbal (unwritten) promises made when the treaty was negotiated.



Northwest
Territories Executive

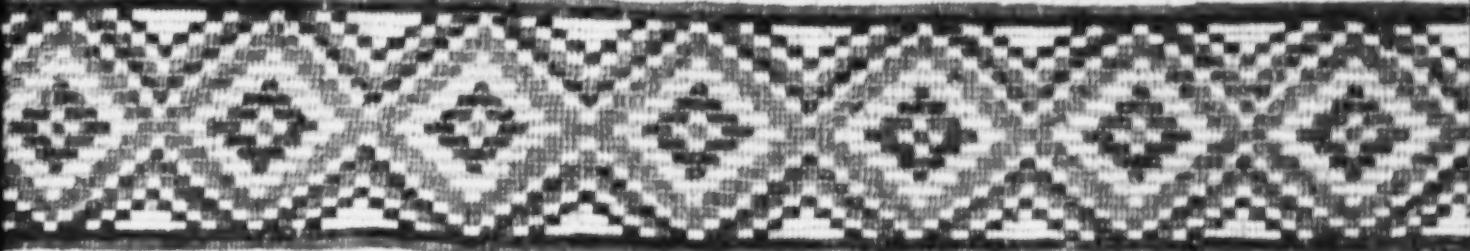
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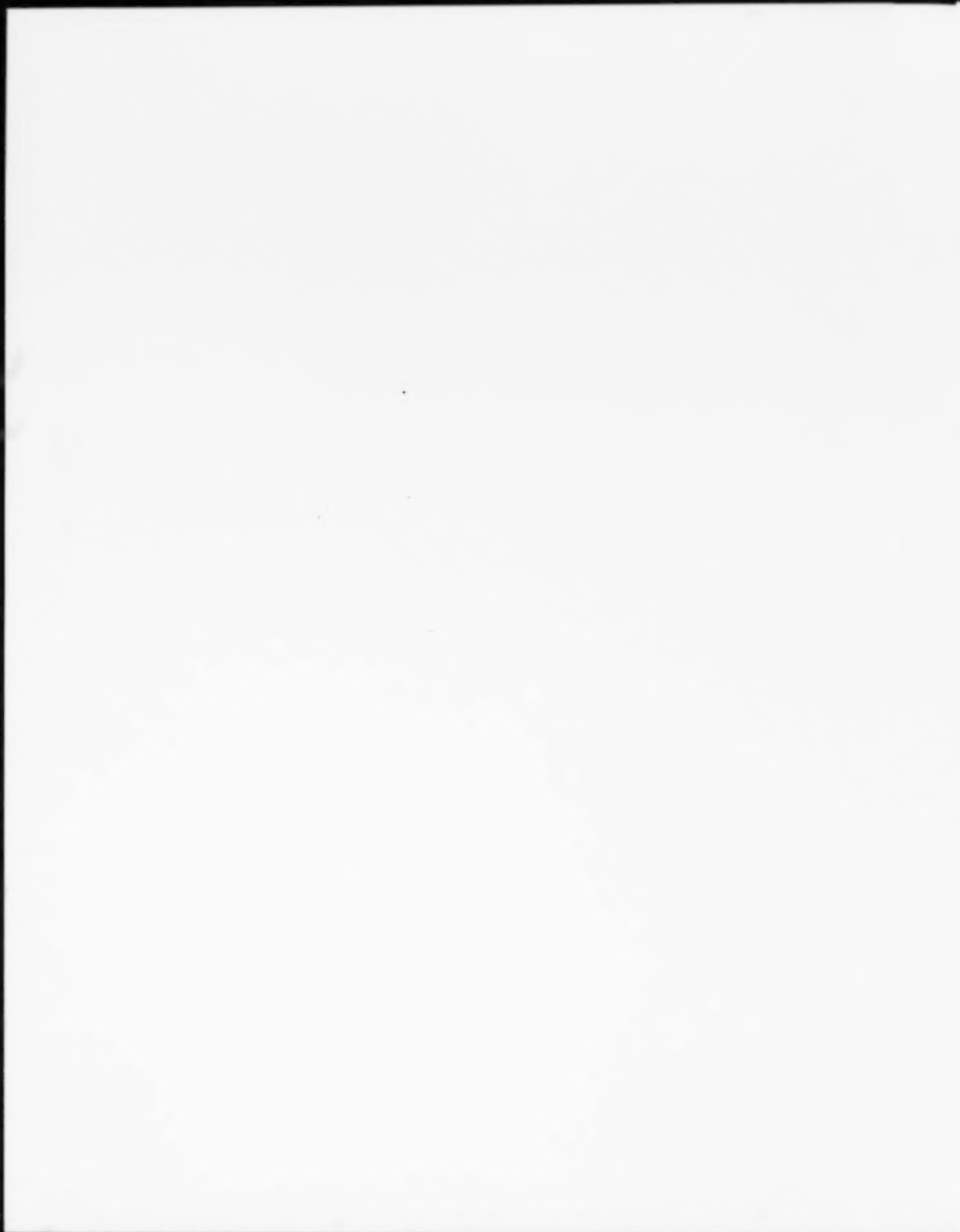
Aboriginal Self-Government in the Northwest Territories

Supplementary Booklet 2



The Constitutional Development of the Northwest Territories





The Constitutional Development of the Northwest Territories



What is a Constitution?

A constitution is the basic laws and rules that set out how a nation, people, region or group is governed. The *Constitution Act of 1982*, describes the Constitution of Canada as "the supreme law of Canada".

Some writers use the term "constitution" in a wider sense than others. One of Canada's constitutional experts, the late Eugene Forsey, describes Canada's constitution as "the set of arrangements by which we govern ourselves." In this sense, documents like the *Constitution Acts of 1867 and 1982* are "the skeleton, not the whole body." This view is consistent with that of the NWT's **Constitutional Working Group** which, in *Partners In A New Beginning*, describes the constitution of the NWT as made up of:

- The *Northwest Territories Act (NWT Act)*
- Political traditions, called "conventions"
- Important territorial acts like the *Elections Act*
- Treaties
- Aboriginal land claim agreements
- Aboriginal traditions and practices
- Other federal acts (e.g. *DIAND Act, Territorial Lands Act*)
- Principles established by the courts.



The first permanent Legislative Assembly building of the NWT (opened, 1993).

photo: Jim Hartman

Described in this way, the "constitution" of the NWT is not rigidly fixed. It changes frequently and includes federal, territorial and Aboriginal authorities, institutions and practices. Nevertheless, the *NWT Act* is of particular importance for setting out the legal framework of the Government of the Northwest Territories (GNWT).

Confederation

In 1867, the British Parliament passed the *British North America Act* (now known as the *Constitution Act, 1867*) to set up the Dominion of Canada. The *Act* set up the basic institutions of our national system of government, and outlined the powers of the federal and provincial governments.

Note: Key words are identified in BOLD text and defined in a listing of Key Words and Ideas on page 8 of this booklet. Other key words are defined where they occur in the text.

The Transfer of Rupert's Land

In 1870, Great Britain transferred Rupert's Land and the **North-Western Territory** to Canada. As well as the present NWT, this area included Yukon, Alberta, Saskatchewan, most of Manitoba, northern Ontario, northern Quebec and most of Nunavut. The Arctic Islands were added in 1880. The NWT's present borders were set by the creation of Yukon (1898), Alberta and Saskatchewan (1905), and Nunavut (1999).

Federal Jurisdiction

Federal responsibility for the northern territories is contained in the *Constitution Act* of 1871. This makes the federal government responsible for the administration, peace, order and good government of the North. The *NWT Act* was passed by Parliament as part of this responsibility.

The Early Government of the Northwest Territories

From 1897 to 1905, the NWT had an elected government resembling a province. But in 1905, after the provinces of Saskatchewan and Alberta were created, what was left of the NWT slipped back to the status of a "colony". For the next 60 years, a Commissioner and an appointed **Territorial Council** ran the NWT from Ottawa.

In the 1950s, a return to an elected government for the NWT began. In 1951, the *NWT Act* was changed to permit three elected Members from the Mackenzie District to join the four appointed Members and the Commissioner on the Territorial Council. At this time, the Council also began



to alternate its sittings between Ottawa and the NWT. Between 1955 and 1966, the powers of the Territorial Council were gradually increased and by 1966 elected Members formed the majority on the Council. In 1975, the Territorial Council became a fully elected body and its Members began to call it the "Legislative Assembly" the following year.

NWT 6th Council. First Opening of the Council in Yellowknife, November 13, 1967.

photo: NWT Archives

Devolution

In 1965, following consultations across the territories, the federal "Carrothers Commission" recommended a gradual increase in territorial responsibility through the setting up of a working territorial government. The Carrothers report had a lot of influence. In 1967, Yellowknife was made the capital of the NWT and the first Commissioner to be permanently based in the NWT was appointed. Many province-like responsibilities were taken over from the federal government in the following years. These included such things as education, housing and social services. Other responsibilities, like health care, forest management and fire suppression were taken over in the 1980s. Crown lands, oil, gas and mineral resources continue to be administered by the federal government.

Responsible Government

Responsible government gradually developed after 1975. In that year, the first two MLAs were appointed to the Commissioner's "Executive Committee". The Executive Committee later became the Executive Council or Cabinet of the NWT. In 1986, Commissioner Parker turned over his last Cabinet responsibilities to elected MLAs, a step that was authorized by the Minister of Indian Affairs and Northern Development under the *NWT Act*. This step marks full responsible government.

Consensus Government

MLAs in the Legislative Assembly of the NWT are not, at present, split along party lines. This means that, following an election, MLAs in the NWT formally vote to choose the Premier and Ministers. In all the provinces and Yukon, by contrast, MLAs are organized along party lines and the leader of the party which has the most MLAs is the Premier.



Dan Norris, Commissioner of the NWT from 1989 to 1994. Commissioner Norris was the first NWT Commissioner to serve strictly in a role like that of a provincial Lieutenant Governor.

photo: NWT Archives

The NWT and the Provinces

Although the NWT is not a province, its government is similar to that of a province. For example, Section 16 of the *NWT Act* sets out the powers of the Legislative Assembly and these are similar to the powers of provincial legislative assemblies.

The main limits on the powers of the GNWT are:

- Although the NWT has similar law-making powers to a province, these powers are not constitutionally protected. Territorial laws are overridden if they conflict with federal laws, even if they deal with a territorial responsibility.
- The federal government controls most Crown lands in the NWT, whereas provincial governments control most Crown lands in southern Canada. This means that the GNWT cannot collect royalties from resources taken from Crown lands or regulate many aspects of development on such lands.

Since the 1980s, the GNWT and the other territorial governments have gradually won the right to attend federal-provincial meetings along with the provinces. The GNWT now also participates in the Western Premiers' Conferences and the Annual Premiers' Conferences. However, territorial governments are not counted for purposes of a formal amendment to the Constitution of Canada under Part V of the *Constitution Act, 1982*.

Some of the important similarities and differences of the NWT and provincial governments are shown in the table on page 7.



13th Legislative Assembly of the NWT following the creation of Nunavut on April 1, 1999. *Seated left to right:* Joe Rabesca, Premier Jim Antoine, Speaker Sam Gargan, Jane Groenewegen and Minister Stephen Kakfwi. *Standing left to right:* Minister Floyd Roland, David Krutko, Don Morin, Minister Vince Steen, Minister Michael Miltenberger, Jake Ootes, Roy Erasmus, Seamus Henry and Minister Charles Dent.

photo: NWT Legislative Assembly

because

the governments of the territories are set up under federal laws, it is sometimes said that they are just branches of the federal government. But in a case dealing with Yukon's official languages the Yukon Supreme Court did not accept this view. In this 1986 case, Justice Mayer said:

"The Yukon territory is not a department of the federal Parliament or of the federal government. It is, in my view, an 'infant province', with most but not all the attributes of a true province. The main distinction between the *Yukon Act* on the one hand, and the *Manitoba, Alberta and Saskatchewan Acts* on the other (all federal Canadian statutes) is that, in creating provinces, the federal

government irrevocably divests itself of certain powers, whereas in the case of the *Yukon Act*, it retains the right to amend or repeal this statute (just as the Parliament of the United Kingdom technically retained the same right until the recent patriation of the Canadian constitution...)"

In the NWT Supreme Court Justice Vertes expressed a similar view in 1999:

"...the territorial assemblies... are not acting as agents or delegates of the federal parliament when legislating within their sphere of powers... In this sense they have a sovereign-like legislative character..."

The NWT and the Provinces Compared

Government Feature

Symbolic Head

Head of Government

Selection of Cabinet

Term of Legislative Assembly

Power to dissolve Legislative Assembly for elections

Size and composition of Legislative Assembly

Main source of law-making powers

Examples of law-making powers

Relation to federal laws

Public (Crown) lands

Power to borrow money

Criminal prosecutions

Attendance at First Ministers' Meetings

Northwest Territories

Commissioner (*NWT Act*)

Premier (by convention)

By MLAs (by territorial law)

4 years (*NWT Act*)

Federal government, following consultation (*NWT Act*)

Fixed by territorial law within limits set by the *NWT Act* and the constitution

NWT Act (S. 16)

- Taxation for territorial purposes
- Territorial civil service
- Health care and charities
- Incorporation of companies
- Municipal government
- Property and civil rights
- Administration of justice
- Education
- Agriculture

Federal laws override territorial laws in the event of a conflict between them

Except for Commissioner's lands, federal ownership and control

Federal authority required

Federal

By convention

Provinces

Lieutenant Governor
(*Constitution Act, 1867*)

Premier (by convention)

By Premier (by convention)

5 years (*Constitution Act, 1982*)

Lieutenant Governor, following advice of the Premier (by convention)

Fixed by provincial law within broad constitutional limits

Constitution Act, 1867
(S. 92, 92A, 93, 95)

- Taxation for provincial purposes
- Provincial civil service
- Health care and charities
- Incorporation of companies
- Municipal government
- Property and civil rights
- Administration of justice
- Education
- Agriculture
- Immigration

Provincial and federal governments each have sole law-making powers in certain areas. Federal laws override provincial laws in the areas of agriculture and immigration

Provincial ownership and control

May borrow on sole credit

Provincial

By convention

The NWT and the Provinces Compared

Government Feature

Symbolic Head

Head of Government

Selection of Cabinet

Term of Legislative Assembly

Power to dissolve Legislative Assembly for elections

Size and composition of Legislative Assembly

Main source of law-making powers

Examples of law-making powers

Relation to federal laws

Public (Crown) lands

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Criminal prosecutions

Attendance at First Ministers' Meetings

Northwest Territories

Commissioner (*NWT Act*)

Premier (by convention)

By MLAs (by territorial law)

4 years (*NWT Act*)

Federal government, following consultation (*NWT Act*)

Fixed by territorial law within limits set by the *NWT Act* and the constitution

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- Agriculture
- Immigration

Provincial and federal governments each have sole law-making powers in certain areas. Federal laws override provincial laws in the areas of agriculture and immigration

Provincial ownership and control

May borrow on sole credit

Provincial

By convention

Key Words and Ideas

Aboriginal Summit

A forum for discussion made up of the elected heads of regional Aboriginal political bodies, the Dene Nation and the Metis Nation - NWT.

Constitutional Working Group

A group made up of Members of the Legislative Assembly (MLAs), representatives of the **Aboriginal Summit**, and other bodies to develop options for the constitutional development of the NWT.

Devolution

The transfer of responsibilities and authority to a more locally or regionally based government. The taking over by the Government of the Northwest Territories (GNWT) of provincial-type responsibilities from the federal government is often called devolution.

North-Western Territory

19th Century and early 20th Century legal documents refer to the "North-western Territory", the "North-Western Territories", the "North-West Territories" and the "North-west Territories". The spelling of the "Northwest Territories" became standard in the first part of the 20th Century.

Patriation

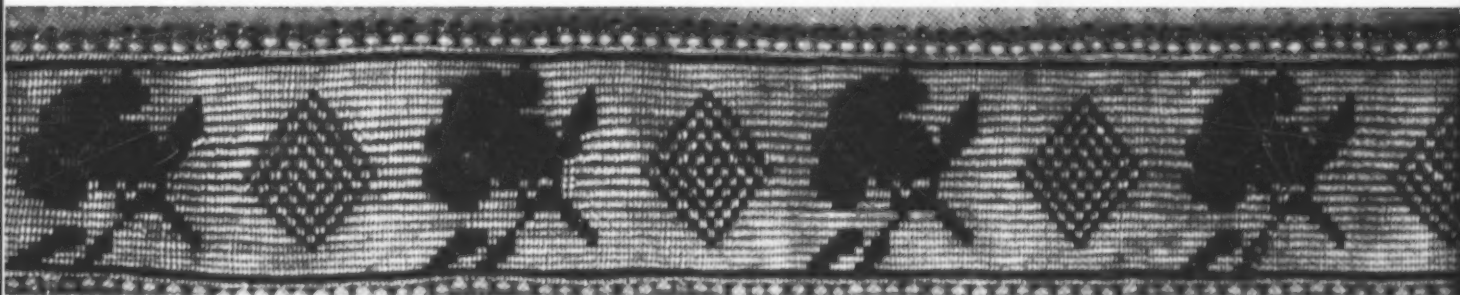
Before 1982, Canada had to get the British Parliament to make important changes to its constitution. Patriation meant making the constitution so that it could be changed by the federal and provincial governments, following certain procedures, without needing to go to the British Parliament.

Territorial Council

The *North-West Territories Act* of 1875 provided for an elected and appointed "Council", which was to be gradually replaced by a fully elected "Legislative Assembly". The elected Legislative Assembly replaced the Council in 1881. But in 1905, following the creation of Alberta and Saskatchewan, an appointed "Council" in turn replaced the Legislative Assembly. The present *Northwest Territories Act (NWT Act)* continues to refer to the NWT's law-making body as a "Council" although it is now (once again) fully elected. In 1985 a territorial law adopted the term "Legislative Assembly", but the *NWT Act* does not reflect this change. The *Nunavut Act* (the federal legislation setting up Nunavut) uses "Legislative Assembly" for Nunavut's elected law-making body.

Responsible Government

A form of government in which Cabinet Ministers must have the support of a majority of the Members of an elected Legislative Assembly.

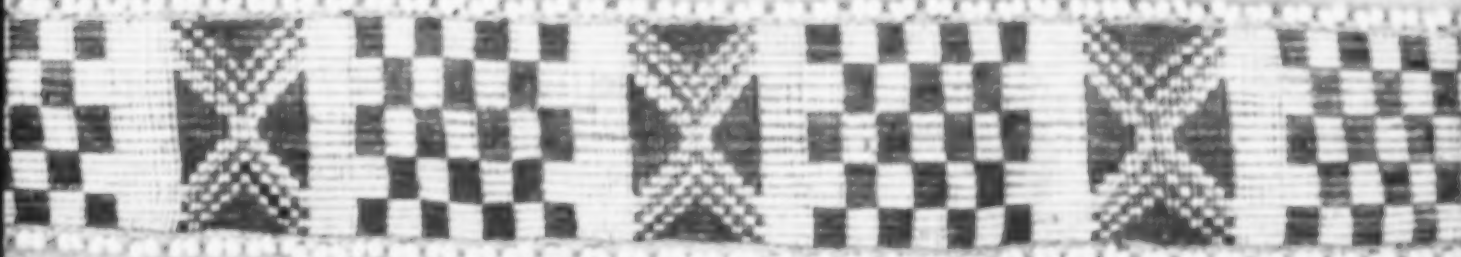
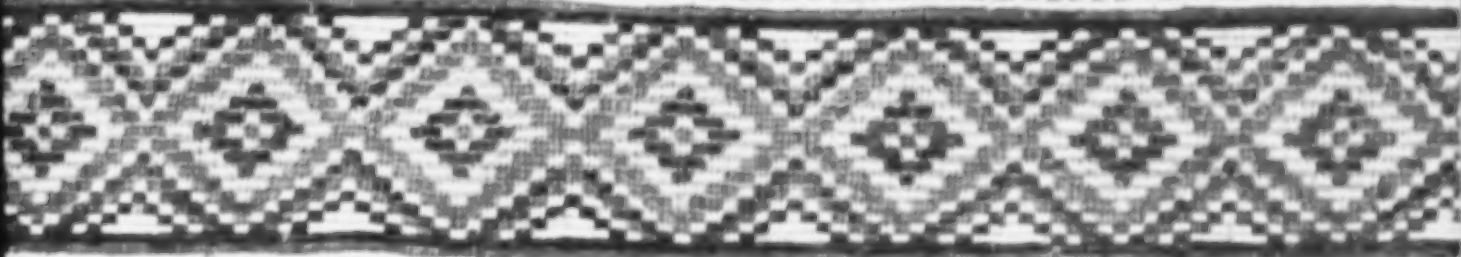




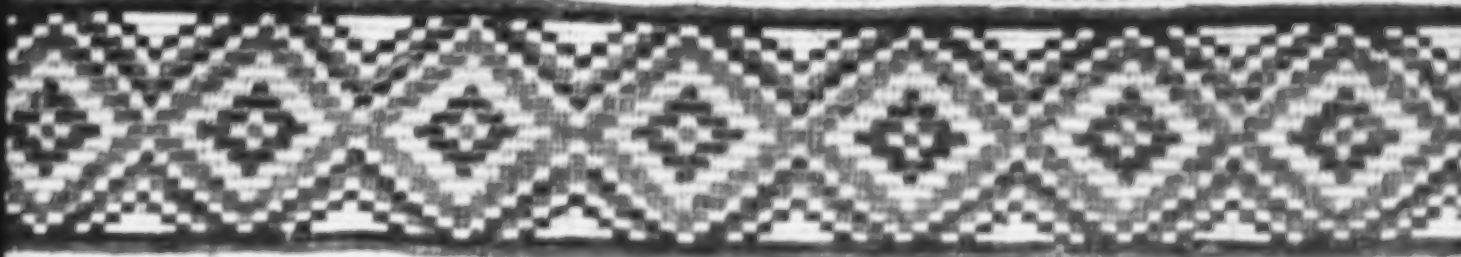
Aboriginal Self-Government

in the Northwest Territories

Supplementary Booklet 3



Our Government Today





Our Government Today

Who's Involved?

There are several different governing bodies and political institutions operating in the Northwest Territories (NWT). Some are active at the territorial level; others are based at the regional or community levels. Some serve or represent all residents; others serve only Aboriginal people.

In the relatively few years since our present Legislative Assembly first became fully elected (1975), Northerners have seen continuing political and constitutional change. Comprehensive **land claim agreements** have been signed by the Inuvialuit, Gwich'in and Sahtu; territorial and community governments have taken on greater responsibilities; the management of health, education and housing programs has been moved closer to the people; and negotiations on self-government are underway. It is therefore useful to review some of the bodies and institutions operating in our changing political environment.

Public Government Bodies and Institutions

Government of Canada

The federal government plays an important role in the lives of all Canadians. Matters as different as old age pensions, unemployment insurance, income tax, the *Criminal Code*, the overall management of the economy, the postal service and our relations with foreign states are all federal responsibilities. These and other federal responsibilities are set out mainly in Sections 91, 94A and 95 of the *Constitution Act, 1867* and are the same in the NWT as elsewhere in Canada.



Federal treaty payments in Trout Lake, 1985.
photo: DIAND

"**Indians**, and Lands reserved for the Indians" are a federal responsibility under Subsection 91 (24) of the 1867 *Constitution Act*. This responsibility gives the federal government a central role in all discussions of Aboriginal and treaty rights and of self-government.

In the NWT, Yukon and Nunavut, the federal government also has powers that belong to the provinces in other parts of Canada. The *Northwest Territories Act (NWT Act)*, our key constitutional document, is a federal Act of Parliament and the federal

government is responsible for any changes to it. In addition, except for some small areas known as "Commissioner's lands", which the Government of the Northwest Territories administers, the Government of Canada controls all Crown lands in the NWT. This includes our water resources, oil, gas and other minerals. The federal government makes many important decisions affecting the territorial economy as a result of its control of natural resources in the NWT.

Federal laws are made by Parliament. Within Parliament, NWT residents are represented in the House of Commons by one Member who is elected by all residents of the territory (Western Arctic constituency). Under the *Canadian Charter of Rights and Freedoms*, elections of the House of Commons must be held at least every five years. In addition, the NWT is represented in the Senate by one seat. Senators are appointed by the Governor-General on the recommendation of the Prime Minister.

Government of the Northwest Territories

The GNWT is set up under the federal *NWT Act*. Section 16 of the *Act* lists the territorial government's powers. Most of these are similar to provincial powers and they include things as different as education, health care, social assistance, wildlife management, setting up of business corporations, municipal government, registration of land titles, the licensing of motor vehicles and the regulation of professions.



Election of the NWT 12th Assembly, October, 1991.
photo: Tessa MacIntosh

Territorial laws are made by the NWT's Legislative Assembly. The *NWT Act* requires a Legislative Assembly of 14 - 25 Members (MLAs). MLAs represent everyone living in their electoral districts. The actual number of electoral districts (within the 14 - 25 range), the boundaries of the electoral districts, the qualifications of voters, and election procedures are all set out in territorial laws. Under the *NWT Act*, an election of the Legislative Assembly must be held at least every four years.

Municipal Governments

Municipal governments are set up under the NWT's *Charter Communities Act*, the *Cities, Towns and Villages Act*, the *Hamlets Act* and the *Settlements Act*. Whatever the type of municipal government, each council is responsible to everyone within the community's boundaries.



Fort Good Hope (Sahtu Settlement Area)
photo: NWT Archives

There are 23 municipal governments in the NWT. These governments are responsible for the delivery of municipal programs and services such as water, sewage and garbage services, fire protection, road maintenance, recreation programs, by-law enforcement and community planning. Many municipal governments are also involved in supporting economic development and providing services like counselling. Some municipal governments also have powers to borrow money, administer land and collect property taxes.

The *Charter Communities Act* allows the Minister of Municipal and Community Affairs to issue a "Charter" to describe:

- (1) the make-up of a community council;
- (2) the method by which councillors are elected or appointed; and
- (3) the period for which councillors will hold office.

The **community charter** may also define the relationship between the community council and any band council or other local Aboriginal organization in or near the municipality. In this way, there may be guaranteed Aboriginal representation on the community council and a single administration may be established for the band council and the community council. The charter must also include the by-law making powers of the community government. 60% of voters must approve the charter by referendum. Deline, Fort Good Hope, Tsiigehtchic and Wha Ti are currently organized as charter communities.

NWT Association of Municipalities

The NWT Association of Municipalities represents all incorporated NWT municipalities and promotes community interests. The Association is consulted on legislative initiatives affecting municipalities and has been active in NWT constitutional development discussions.

Community and Regional Boards Established by the GNWT

To give more decision-making and program responsibilities to the people served, the GNWT has passed legislation setting up community and regional boards. These include:

- District Education Authorities: members are elected by all residents of the education district to perform duties under the *Education Act* with respect to education programs and the management of schools.
- Local Housing Associations and Authorities: bodies are established at the community level to

manage social housing and housing projects under agreements made under the *NWT Housing Corporation Act*.

- **Health and Social Services Boards:** members are appointed by the Minister of Health and Social Services under the *Hospital Insurance and Health and Social Services Administration Act*. They have the responsibility to represent their communities and to manage the health care and social services facilities and services for which the Board is responsible.

Aboriginal Government Bodies and Institutions

Band Councils



Chief Lloyd Chicot, Ka'a'gee Tu First Nation, Kakisa.

photo: MACA

Band councils are set up under the federal Indian Act and are elected by band members. Band councils are responsible for internal band matters and may represent the interests of the band at the community, tribal, regional, territorial and national levels. Band councils access funding to deliver a range of programs for band members and many band councils have participated in the establishment of community development corporations.

Band councils in the NWT follow the same model as those on reserves in southern Canada. The present *Indian Act* provides for elections of chiefs and band councils to be held in accordance with the Act or by custom of the band (all NWT bands follow a custom system). Unless the Minister of DIAND makes an order to allow for an exception, the council of a band must be made up of one chief and one councillor for every one hundred band members. The number of councillors must not be less than two, nor more than twelve, and no band can have more than one chief.

The general absence of reserves in the NWT (Hay River and Salt Plain are exceptions) has meant that band councils here, although established under the *Indian Act*, have fewer powers that they can exercise than band councils in southern Canada. Services arrangements are also different. For example, DIAND does not provide services, or funding for programs, in the way it does on reserves in southern Canada.

Band Councils in Unincorporated Communities

There are ten communities in the NWT where no municipal government has been formed under territorial legislation. In these communities, the local band councils have entered into agreements with the GNWT to provide services that would normally be provided by a municipal government. For example, in Jean Marie River, where there is no municipal government, the GNWT has entered into an agreement with the band council for the delivery of municipal services to all residents. These include band members as well as any residents who are not members of the band.

Community and Regional Metis Organizations

Metis in the NWT have established several community-based locals, councils and corporations to serve their interests. Each organization is governed by a constitution and by-laws. These set out requirements for membership and eligibility to vote and hold office. Many Metis organizations have set up development corporations, and all provide a range of programs and services to their members.

At a regional level the North Slave Metis Alliance and the South Slave Metis Tribal Council provide programs and services at the community and regional levels with the assistance of federal and territorial program funding. The South Slave Metis Tribal Council is currently engaged in negotiations with the federal government and the GNWT which are expected to deal with ownership of certain lands, resources management, and self-government in the South Slave region. In 1998, the North Slave Metis Alliance negotiated an **Impact Benefits** Agreement with BHP Diamonds Inc. Both the North Slave Metis Alliance and the South Slave Metis Tribal Council are members of the Aboriginal Summit.

Aboriginal Land Claim Corporations

Land claim agreements have been signed by the Inuvialuit, Gwich'in, and Sahtu **Dene** and Metis. A number of bodies have been set up under each agreement to manage lands, water and wildlife, to manage and distribute revenues and to administer economic, social and cultural development programs in each settlement area. The Inuvialuit Land Corporation, the Gwich'in settlement corporations and the Sahtu Secretariat Incorporated are all examples of bodies set up under land claim agreements.



Signing of the Inuvialuit Final Agreement in 1984.

Left to right: Inuvialuit negotiators and representatives Robert DeLury, Annie Gordon and Les Carpenter

photo: Inuvialuit Regional Corporation

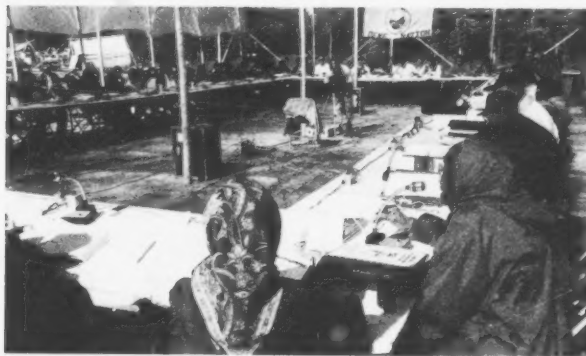
Tribal Councils

In many areas of the NWT, tribal councils have been set up to serve and represent the interests of their members at a regional level. Tribal Councils are made up of chiefs and band councillors from Dene communities or Metis representatives and have varied responsibilities from region to region. The Gwich'in Tribal Council has important responsibilities under the *Gwich'in Comprehensive Land Claim Agreement*. Other tribal councils represent their constituents at comprehensive land claim, treaty land entitlement and self-government negotiations. In addition, some tribal councils get funding from the federal and territorial governments to provide programs and services.

Inuvialuit Regional Corporation

The Inuvialuit Regional Corporation was set up to carry out a number of important responsibilities under the *Inuvialuit Final Agreement*, including the initial transfer of financial compensation and settlement lands. In addition to its responsibilities under the *Inuvialuit Final Agreement*, the Inuvialuit Regional Corporation belongs to broader organizations including the Aboriginal Summit and the national Inuit association, Inuit Tapirisat of Canada.

Dene Nation



Dene Nation assembly at Weledeh, 1998.
photo: Jeri Hermann

The objectives of the Dene Nation include providing and supporting programs and policies for the economic, social, educational, health and cultural benefit of NWT Dene and giving voice to the opinions of the Dene at the territorial and other levels. All descendants of NWT Dene who are resident in the NWT are eligible for membership in the Dene Nation.

Metis Nation - Northwest Territories

Many community-based Metis organizations are affiliated with the Metis Nation, which represents the interests of its member organizations at the territorial and national level. Through the Metis Nation - NWT, Metis have participated in the establishment of territorial organizations like the Metis Development Corporation and the Metis Heritage Association.

Aboriginal Summit

The Aboriginal Summit is a forum for discussion made up of the elected heads of regional Aboriginal political bodies, the Dene Nation and the Metis Nation - NWT. The Deh Cho Tribal Council has chosen observer status in the Summit.

Joint Bodies and Institutions

Co-Management and Advisory Boards

The Inuvialuit, Gwich'in and Sahtu land claim agreements all provide for the establishment of management and advisory boards. These have responsibilities in the areas of resource management in which **public governments** and **Aboriginal peoples** have an interest. The boards are generally appointed by the federal and territorial governments and Aboriginal organizations. For this reason, they are described as "joint management" or "co-management" boards. This recognizes the interests of each party as well as the need for the coordinated management of resources.

Co-management and advisory boards have been set up to draft land-use plans, consider land use proposals, review environmental impacts, manage wildlife and make recommendations about heritage places and sites.

Key Words and Ideas

Aboriginal Government

A government that represents and serves an Aboriginal people.

Aboriginal Peoples

The descendants of the original peoples of Canada. Section 35 (2) of the Constitution Act, 1982 defines the Aboriginal peoples as Indians, Inuit and Metis.

Band

A local grouping of Indian people as defined in Section 2 of the *Indian Act*. Many bands are known as First Nations.

Community Charter

A legal document issued under the *Charter Communities Act* that sets out how a community government is to be set up and its by-law making powers.

Dene

Aboriginal peoples of the Mackenzie Valley, from Inuvik and Aklavik southwards. Dene groups in the NWT include the Gwich'in, Sahtu Dene, Dogrib, Chipewyan and South Slavey. Dene speak languages that are distinct from one group to another, but which belong to the same general language family.

Impact Benefits Agreement

An agreement with the private sector intended to limit the negative effects of resource development and provide employment and training opportunities for Aboriginal people. Impact benefits agreements have been completed between BHP Diamonds Inc. and the North Slave Metis Alliance, the Dogrib Treaty 11 Council and the Akaitcho Treaty 8 (Yellowknives Dene and Lutselk'e). In Nunavut, BHP has signed an impact benefits agreement with the Hamlet of Kugluktuk and the Kitikmeot Inuit Association.

Indian

Section 91 (24) of the *Constitution Act, 1867* gives the federal government responsibility for "Indians, and Lands reserved for the Indians". The *Indian Act* was passed by Parliament under this constitutional authority.

Inuvialuit

The Inuit of the Mackenzie Delta and Beaufort Sea region.

Land Claim Agreement

An agreement between an Aboriginal people and the Crown dealing with Aboriginal title in a geographic area. Land claim agreements deal with things like the rights of governments and Aboriginal people to land and resources, wildlife management and cash compensation. Land claim agreements may also deal with self-government.

Metis

Historically, people of both Aboriginal and non-Aboriginal origins mainly located in the prairie provinces and the NWT. Metis belong to a distinct group and are defined in the constitution as one of the Aboriginal peoples of Canada.

Public Government

A government which represents and serves all residents in an area. The federal, provincial, territorial and municipal governments are all "public governments".

Reserve

Defined in Section 2 of the *Indian Act* as an area of land that has been set aside for an Indian Band. Under the *Indian Act* the Crown has the title to Indian reserve land.





Aboriginal Self-Government in Northwest Territories

Supplementary Booklet 4



Our Population Profile



Our Population Profile

Age Distribution

The NWT covers 1,171,918 square kilometers:

- About 40,000 people live in 33 communities
- The population has grown by 32% since 1981
- The population is much younger than in the rest of Canada

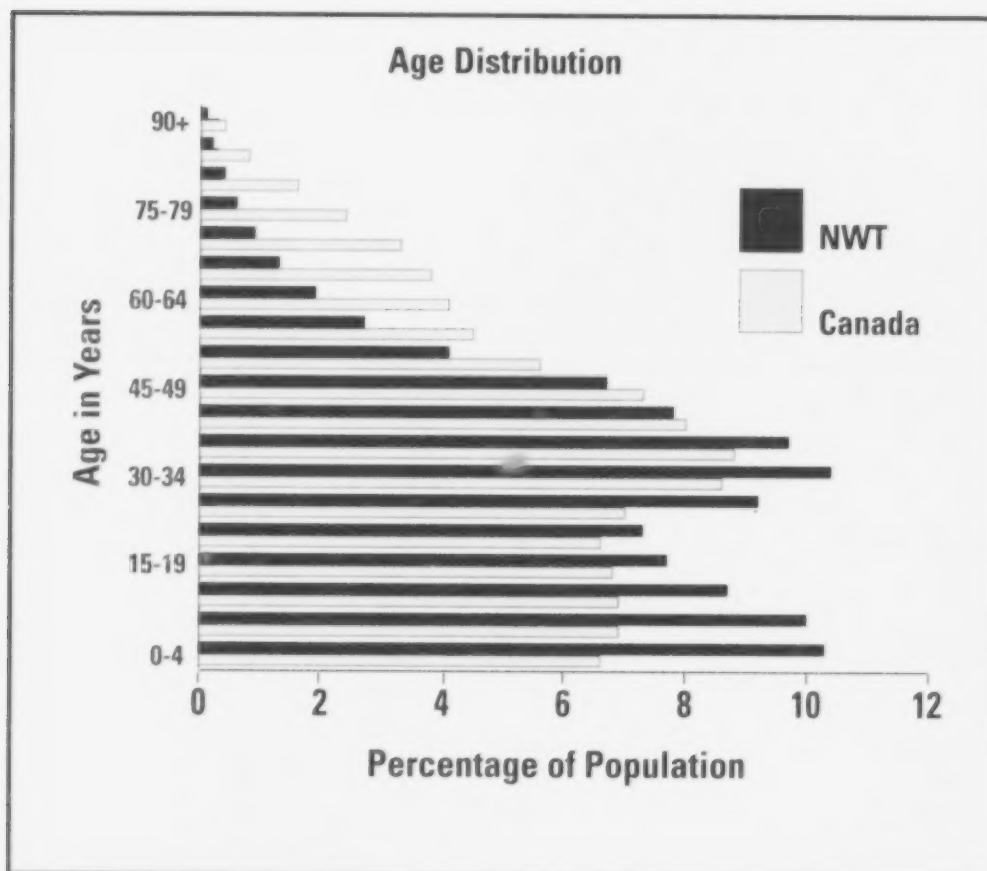


photo: NWT Archives

*Note: Figures for all charts are drawn from the 1996 Census, using the boundaries of the NWT as established in 1999.

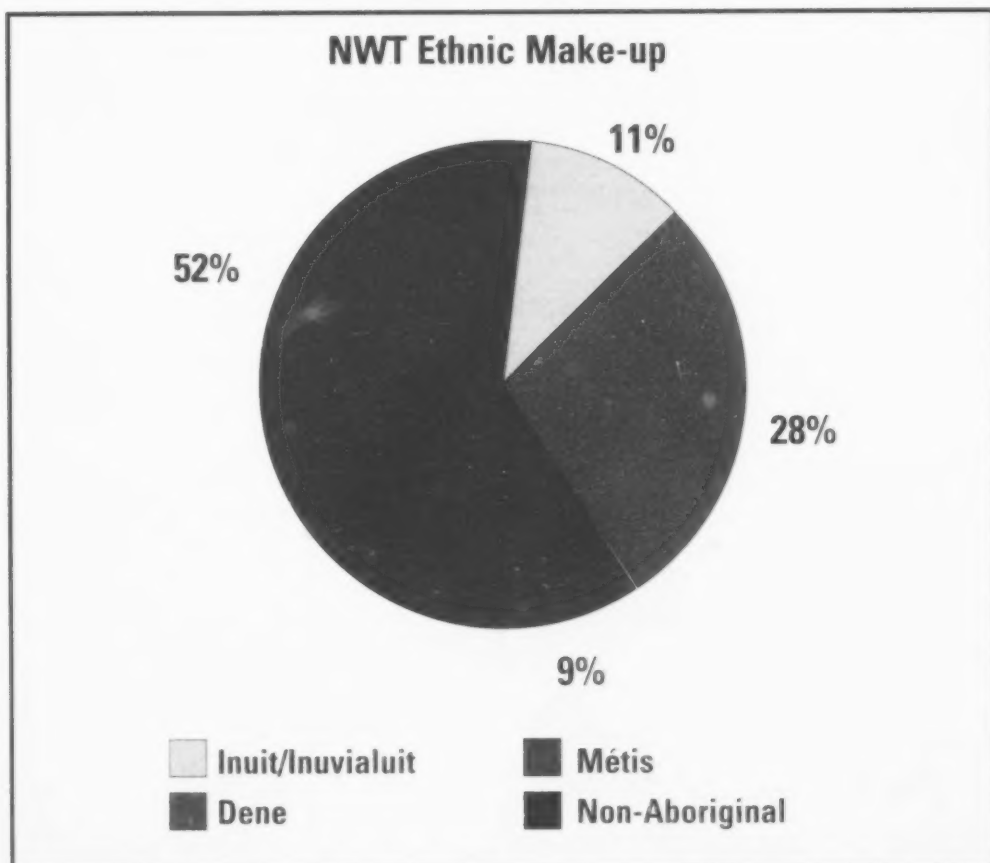
Ethnic Make-up

People living in the NWT come from many backgrounds:

- 48% of the population is Aboriginal
 - 28% are Dene
 - 11% are Inuit or Inuvialuit
 - 9% are Metis
- 52% of the population is non-Aboriginal

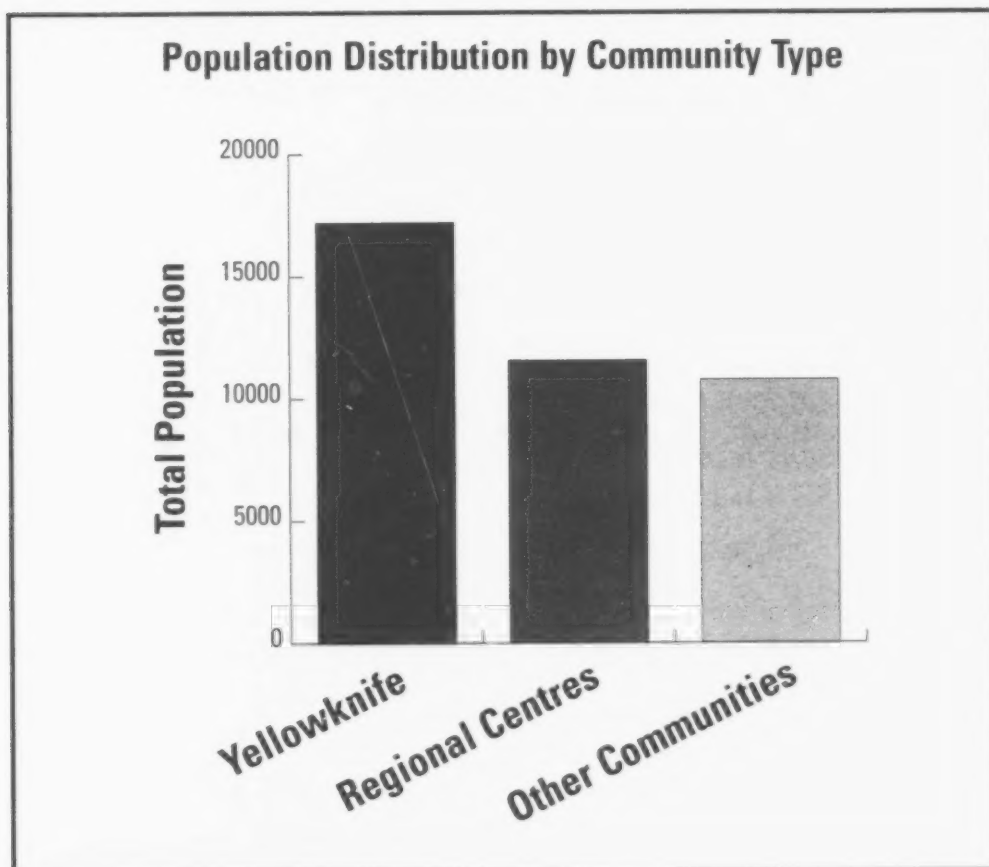


Metis jig
photo: Jeri Hermann



Population Distribution by Community Type

- 44% of the people in the NWT live in Yellowknife
- 29% live in the five other "regional centres" (Inuvik, Norman Wells, Fort Smith, Hay River and Fort Simpson)
- 27% live in the remaining 27 communities



There are 3,420 Aboriginal people living in Yellowknife. This is more than in any other single community in the NWT.

Yellowknife
photo: NWT Archives

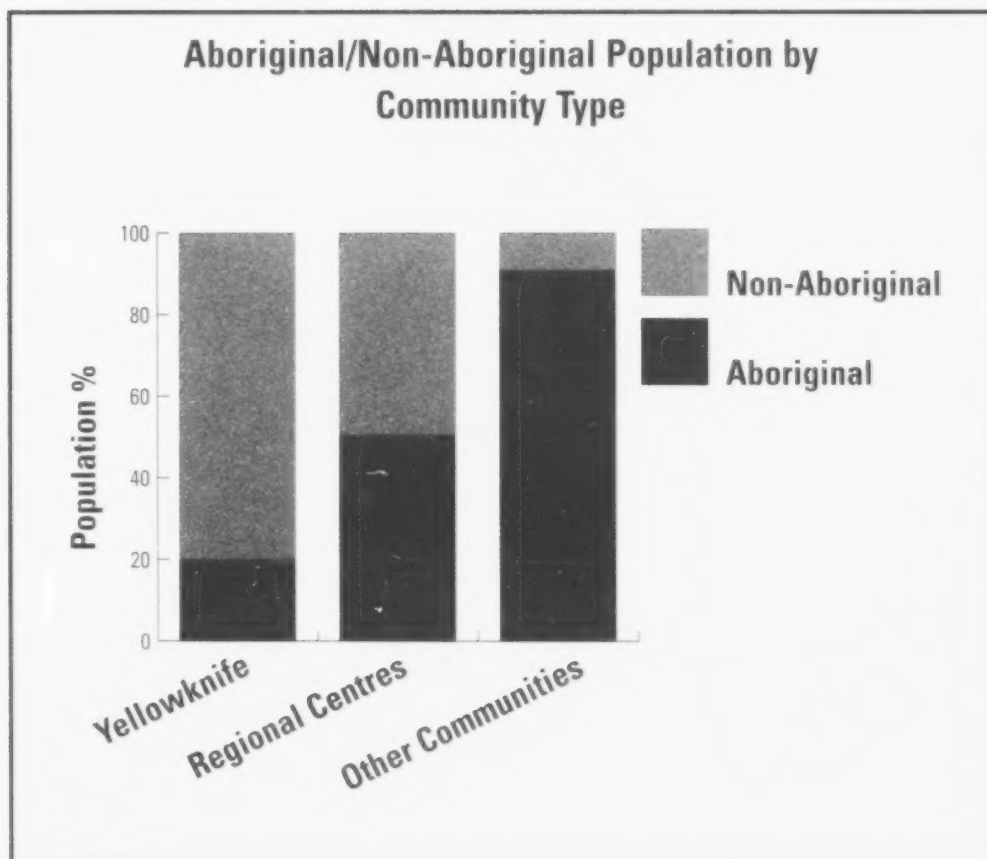
Aboriginal/Non-Aboriginal Population by Community Type

Aboriginal people make up:

- 20% of population of Yellowknife
- Half of the population of the five "regional centres"
- 90% of the population of the other 27 communities



Kakisa (Deh Cho region)
photo: NWT Archives



Aboriginal/Non-Aboriginal Population by Settlement Area and Region

Aboriginal people make up:

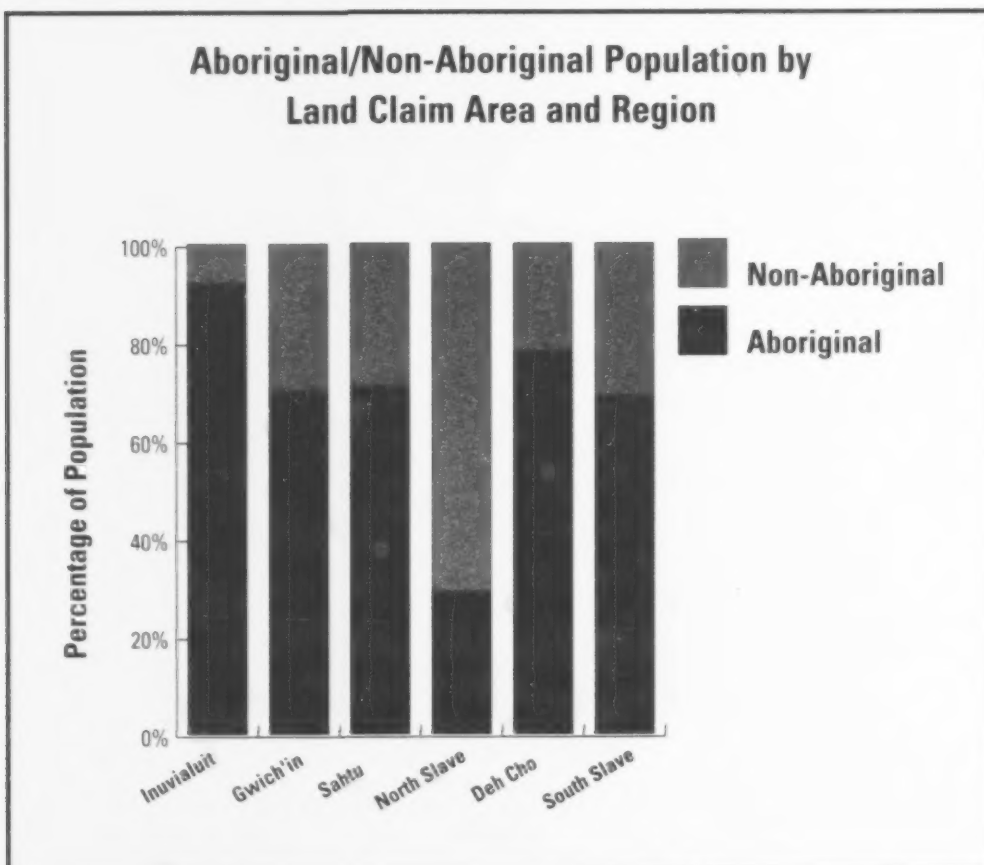
- 92% of the Inuvialuit Settlement Region
- 70% of the Gwich'in Settlement Area
- 71% of the Sahtu Settlement Area
- 21% of the North Slave region
- 78% of the Deh Cho region
- 69% of the South Slave region

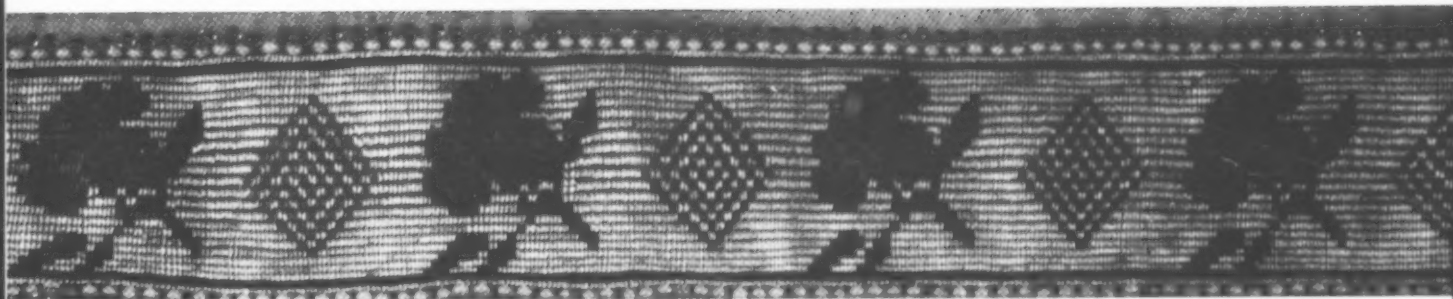
The City of Yellowknife is part of the North Slave region:

- Aboriginal people make up 91% of the population of the North Slave region if the City of Yellowknife is not included.

The Inuvialuit Settlement Region and the Gwich'in and Sahtu Settlement Areas are defined in the Inuvialuit, Gwich'in and Sahtu land claim agreements.

The North Slave, Deh Cho and South Slave regions are administrative districts of the Government of the Northwest Territories that may not correspond to claim settlement areas.

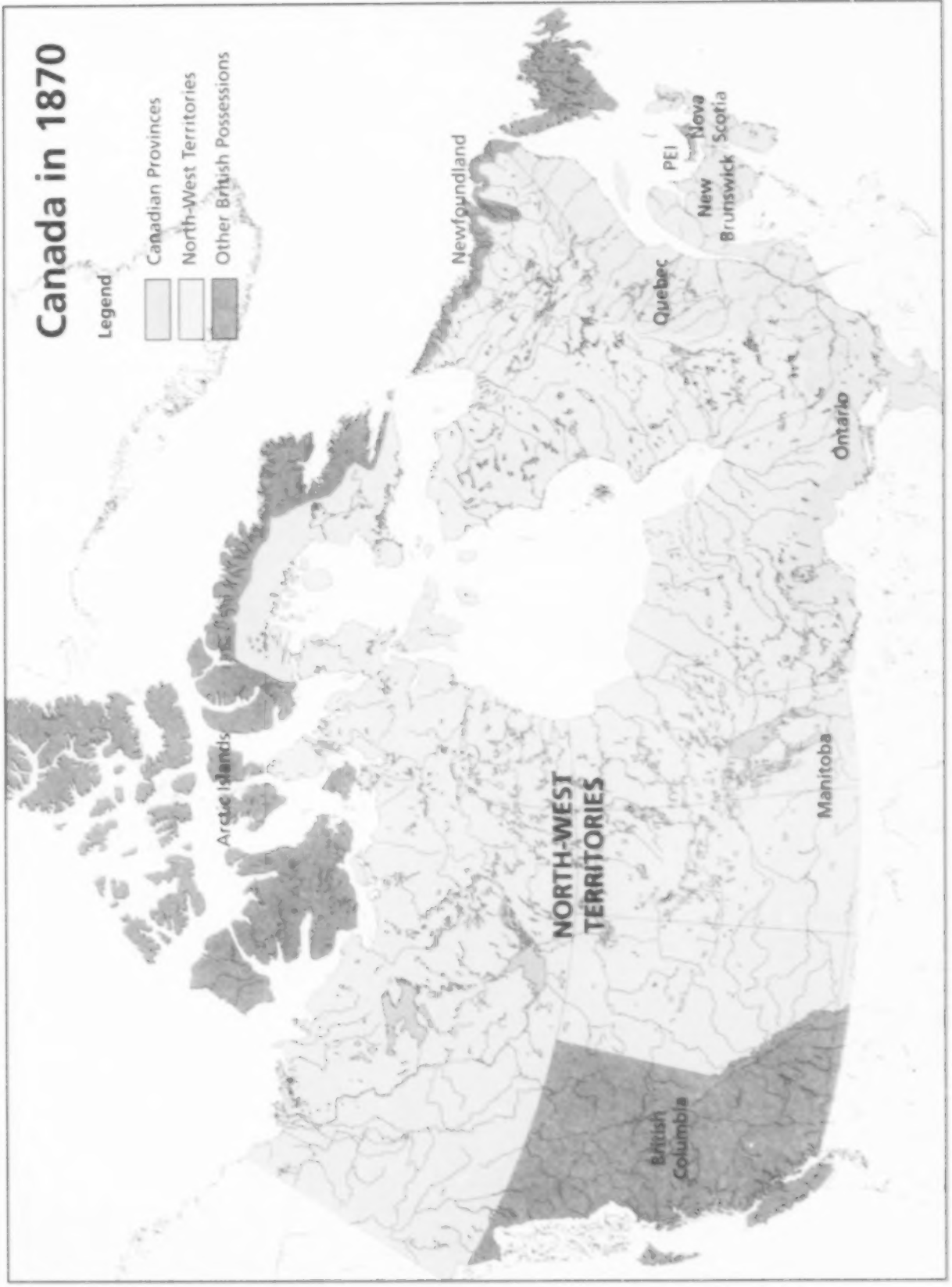




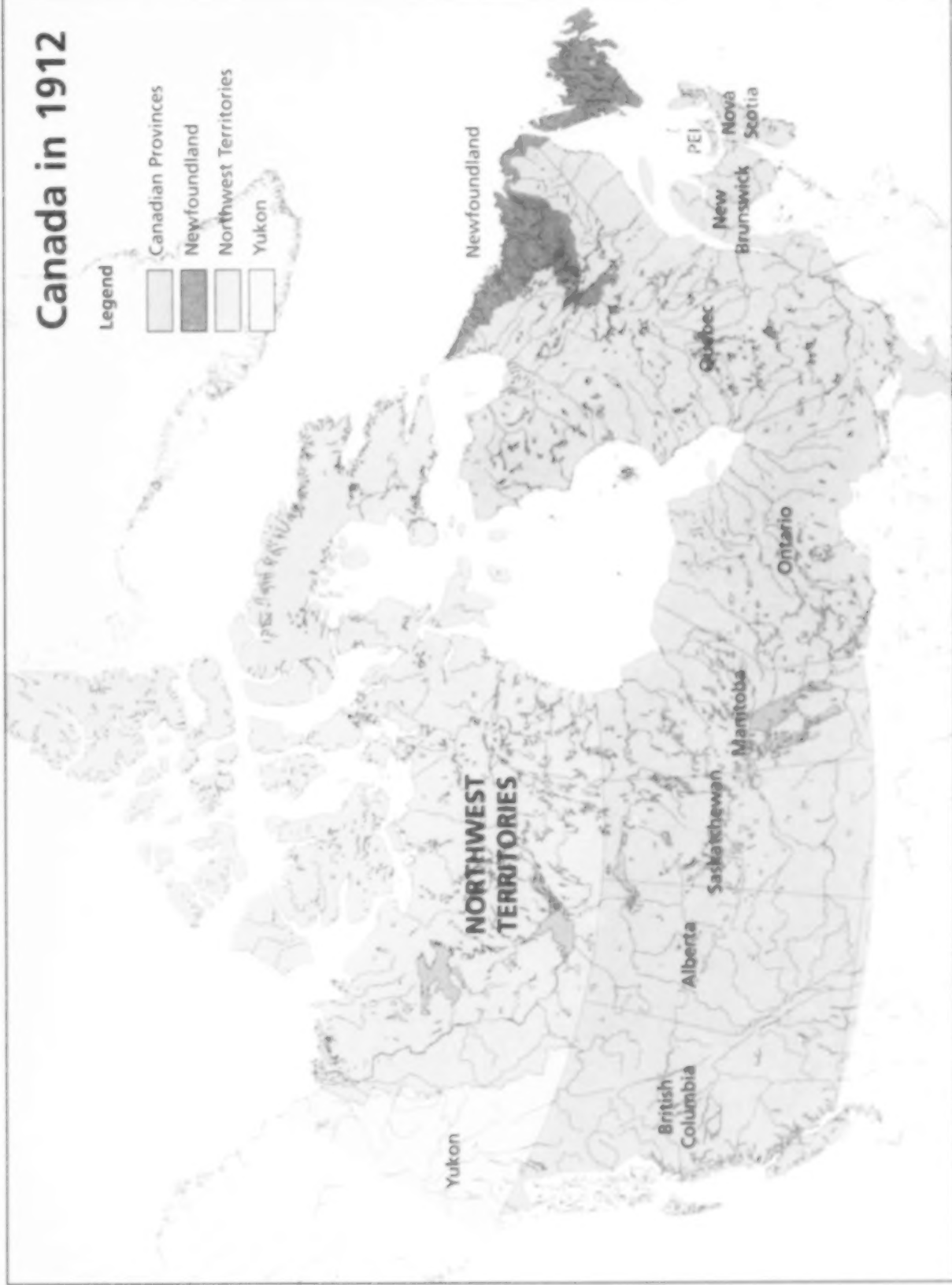
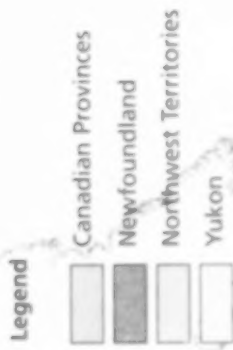
Canada in 1870

Legend

-  Canadian Provinces
-  North-West Territories
-  Other British Possessions



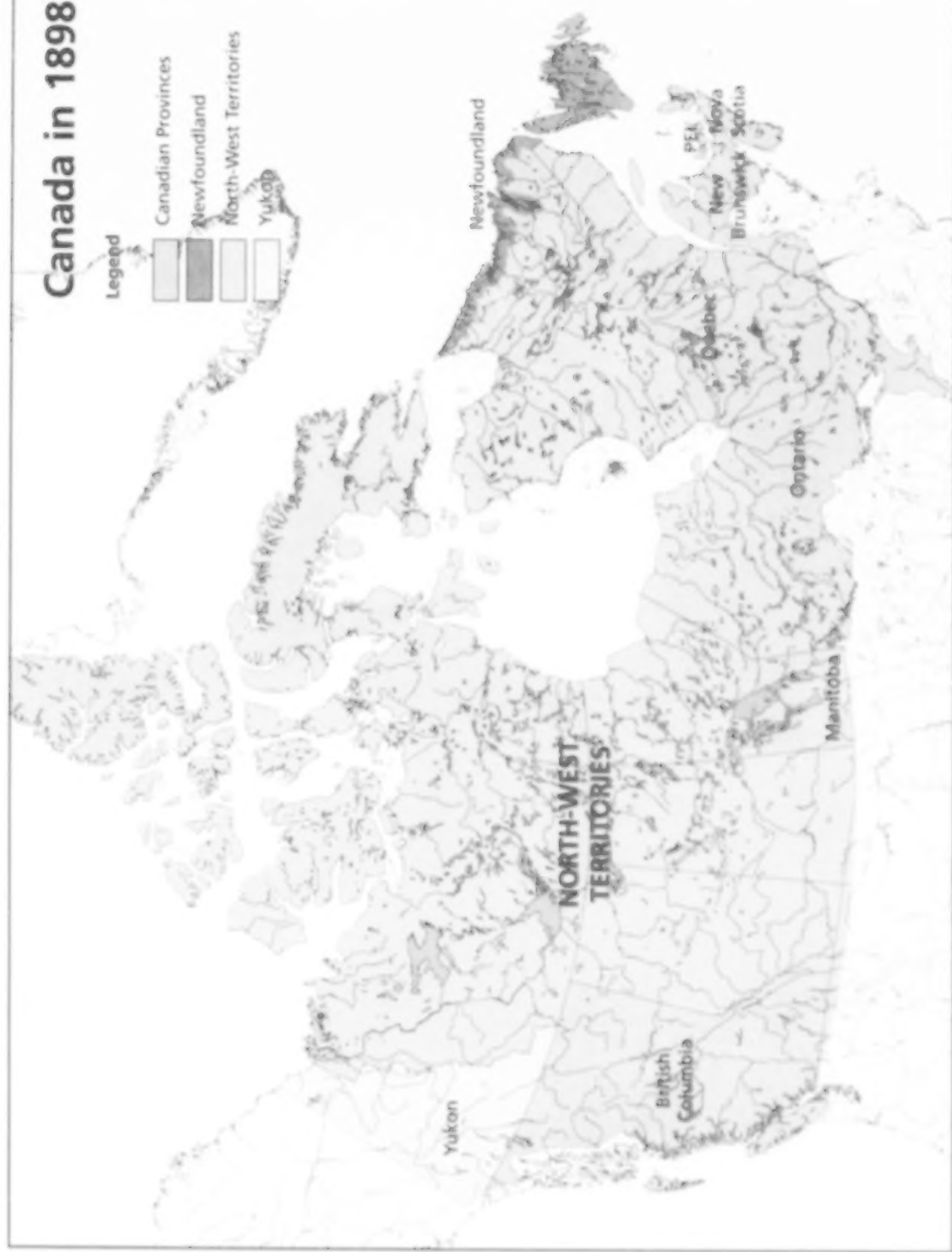
Canada in 1912



Canada in 1898

Legend

-  Canadian Provinces
-  Newfoundland
-  North-West Territories
-  Yukon



Canada in 1999

Legend

